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SENATE JOINT RESOLUTION 34

Interim Study of Licensing Laws
Regarding Facilities that Provide
Protective Oversight, Supervision,
Personal Care, Rehabilitation, and
Health Care.

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1 SENATE JOINT RESOLUTION NO. 34

2 INTRODUCED BY SENATE PUBLIC HEALTH COMMITTEE

3 BY HAGER, CHAIRMAN

4
5 A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF
6 REPRESENTATIVES OF THE STATE OF MONTANA REQUESTING AN
7 INTERIM STUDY OF LICENSING LAWS REGARDING FACILITIES THAT
8 PROVIDE PROTECTIVE OVERSIGHT, SUPERVISION, PERSONAL CARE,
9 REHABILITATION, AND HEALTH CARE TO THE YOUNG, DISABLED,
10 INFIRM, OR ELDERLY OF THE STATE.

11
12 WHEREAS, the licensing laws for ensuring the protection
13 of various groups of young, disabled, infirm, or elderly
14 have been developed in a disjointed manner over the years;
15 and

16 WHEREAS, both the Department of Health and
17 Environmental Sciences and the Department of Social and
18 Rehabilitation Services, AND THE DEPARTMENT OF INSTITUTIONS
19 have responsibility for licensing and certifying the same or
20 similar facilities and each department may require a
21 different procedure for licensing; and

22 WHEREAS, federal regulations have required amendments
23 to state statutes; and

24 WHEREAS, the providers of social and health services
25 are confused about the constant changes in the licensing

1 laws.

2 NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND THE HOUSE
3 OF REPRESENTATIVES OF THE STATE OF MONTANA:

4 (1) That an interim committee be assigned to study
5 licensing laws regarding facilities that provide protective
6 oversight, supervision, personal care, and health care to
7 the young, disabled, infirm, or elderly of the state.
8 (2) That the study include but not be limited to a
9 consideration of the licensing laws regarding:

10 (a) child-care agencies;

11 (b) licensed day care;

12 (c) shelter and foster care facilities;

13 (d) home health care;

14 (e) nursing-homes LONG-TERM CARE FACILITIES;

15 (f) adult foster family care homes; and

16 (g) community homes for the developmentally disabled;

17 (h) RESIDENTIAL AND TRANSITIONAL LIVING FACILITIES;

18 INCLUDING ROOMING HOUSES, BOARDING HOMES, AND RETIREMENT


19 HOUSES;

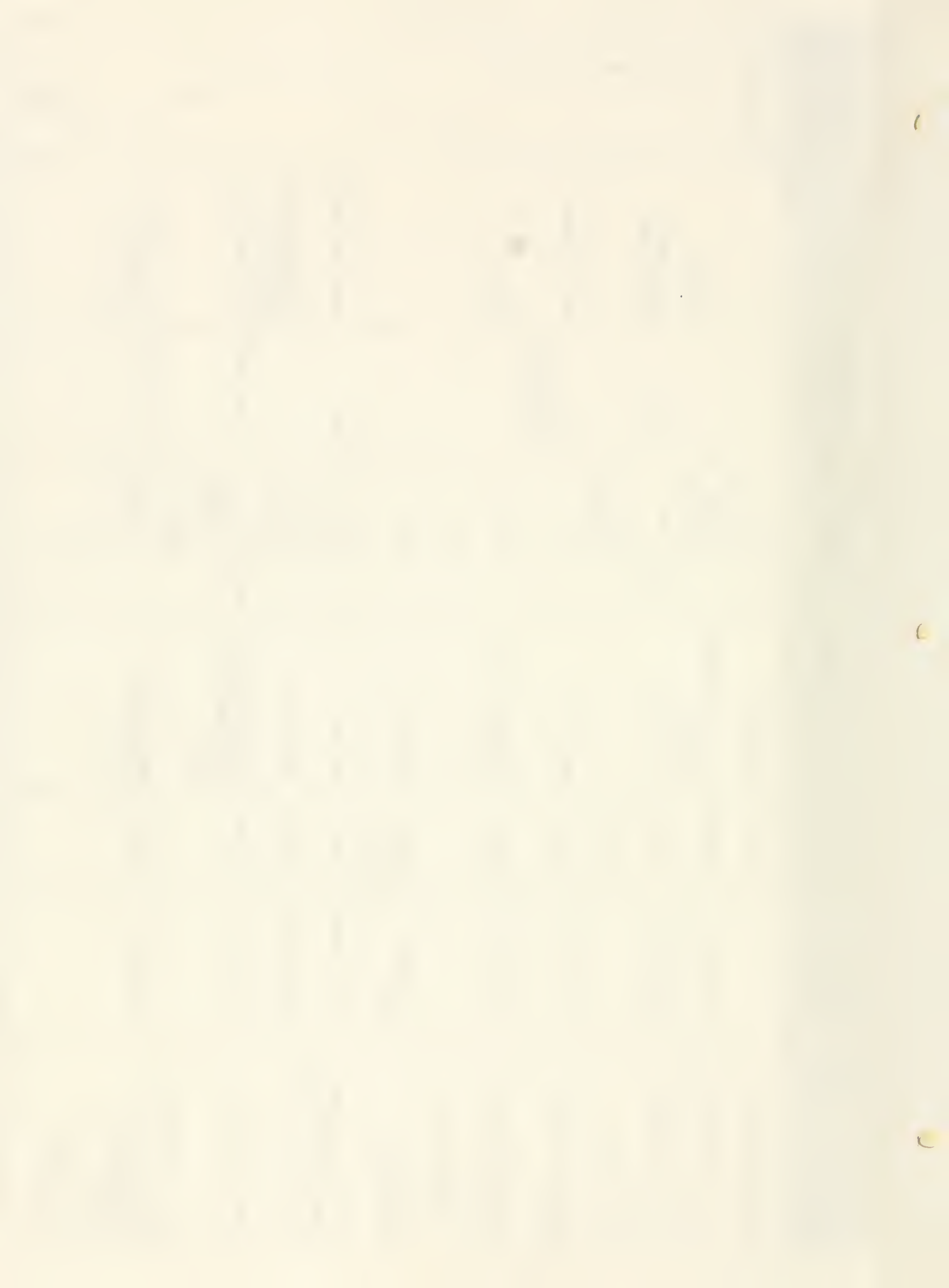
20 II SMILING BEDS; AND

21 III ALCOHOLISM AND DRUG TREATMENT FACILITIES.

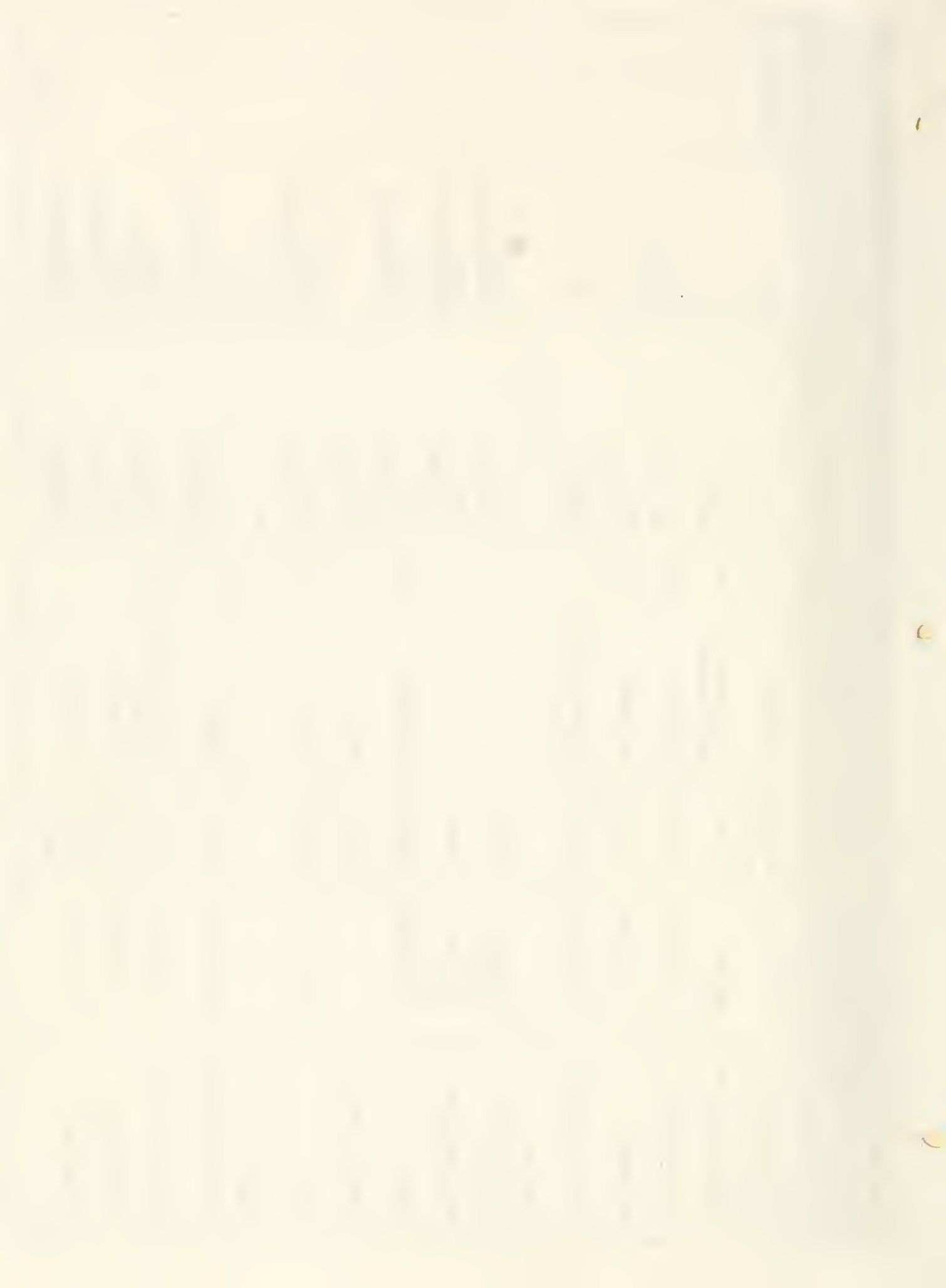
22 (3) That the Committee examine the possibility of
23 developing a comprehensive licensing law governing all
24 social and health care facilities.


1 (4) That the Committee report its recommendations and
2 proposed legislation if any, to the 48th Legislature.

NAME OF INSTITUTIONAL SERVICE	DEFINITION OF SERVICE	MONTANA STATUTES (MCA)	ADMINISTRATIVE RULES OF MONTANA	NO. OF SERVI- CES	LICENSE AUTHORITY	CERTIFICATION AUTHORITY	INSPECTIONAL RESPONSIBILITY	COMMENTS
Achievement Homes		41-3-Part 5	46.5.505-507	4	SRS (41-3-502)		DHES (50-5-204)	See Data Sheet 
Adult Day Care Center	50-5-101 MCA	50-5-Part 1,2	Adoptable by DHES (50-5-103)	0	DHES (50-5-201)		Supervised By SRS(53-5-303)	
Adult Foster Family Care	50-5-302, 303 MCA	53-5-Part 3	46.5.701-703	122	SRS	Justice		
Aftercare Homes		41-3-Part 5		4	SRS (41-3-502)			
Alcohol/Drug Treatment Program	53-24-103 MCA	53-24-Part 1,2	20.3.101-216		DI	DI (20.3.401-405, 53-24-204(g))	DI(53-24-208(3))	
Alcohol/Drug Treatment Facility	50-5-101 MCA	50-5-Part 1,2,3	Adoptable by DHES (50-5-103)		DHES		DHES	
Transitional Living Facility					DI			
Attention Homes (Shelter Care)	41-5-103(18) MCA	41-5-801, 802 41-5-306	46.5.505-507	5	SRS			
Child Adoptive Agency (Voluntary Child Placing)	46.5.401 ARM	53-4-Part 4	46.5.401	5	SRS (53-4-402)	SRS	Investigation By SRS	
Child Care Agency	46.5.601 ARM	41-3-Part 5	46.5.601-618	5	SRS (46.5.604)		DHES, SRS, Justice 46.5.605(K)	
Child Day Care Center	53-4-401 MCA	53-4-Part 5	DHES:46.24.401-405 SRS:46.5.604 and 901-903	126	SRS (46.5.634 & 904(c))	Justice, DHES	DHES, SRS, Justice	
Childrens Group Homes					SRS			
Community Home for Developmentally Disabled	53-20-302 MCA	53-20-Part 3	SRS:46.5.801-803 and DHES	67	DHES, SRS (46.5.802)	DHES, Justice	Local health dept., DHES, SRS	
Cooperative Living Arrangements					DI			



NAME OF INSTITUTIONAL SERVICE	DEFINITION OF SERVICE	MONTANA STATUTES (MCA)	ADMINISTRATIVE RULES OF MONTANA	NO. OF SERVICES	LICENSE AUTHORITY	CERTIFICATION AUTHORITY	INSPECTIONAL RESPONSIBILITY	COMMENTS
District Youth Guidance Home	41-5-901 MCA	41-3-Parts 5 and 9	DI:(41-5-902)	9	SRS (41-3-502)		SRS	See Data Sheet
Family Day Care Home	53-4-Part 5 MCA	53-4-Part 5	SRS will develop with DHES and Justice	750	Register with SRS		SRS	
Foster Family Care	41-3-501 MCA	41-3-Part 5	46.5.505-507	900	SRS (46.5.506)		SRS (41-3-503)	
Foster Home	41-3-501 MCA	41-3-Part 5	46.5.505-507	900	SRS (41-3-502)		SRS	
Group Day Care Home	53-4-Part 5 MCA	53-4-Part 5	SRS will develop with DHES and Justice	8	Register with SRS		SRS	
Group Homes								
Health Maintenance Organization	42CFR405, 2001-2007	50-5-Part 1		0	DHES (16.32.304)		DHES (16.32.304(2)(b))	
Home Health Agency	42CFR405 Subpart L	50-5-101		17	DHES (16.32.304)		DHES (16.32.304(2)(b))	
Hospital	50-5-101 MCA	50-5-Part 1	16.32.320-330	61	DHES (16.32.304)		DHES (16.32.304(2)(b))	
Independent Living Home								
Infirmary	50-5-101 MCA	41-3-Part 5	46.5.505	1	SRS (41-3-502)		DHES (16.32.304(2)(b))	
Intensive Care Treatment Centers								
Kidney Treatment Center	50-5-101 MCA	50-5-Part 1	16.32.340	2	DHES (16.32.304)		DHES (16.32.304(2)(b))	
Long Term Care Facility	50-5-101 MCA	50-5-Part 1, 2	16.32.396	4	SRS		DHES (16.32.304(2)(b))	
Skilled Nursing	50-5-101 MCA	50-5-Part 1, 2 and 4	Adoptable by DHES (50-5-103)	94	DHES (50-5-201)		DHES (50-5-204)	
Intermediate Care	50-5-101 MCA	50-5-Part 1, 2 and 4	16.32.360-363		DHES (16.32.304)		DHES (16.32.304(2)(b))	
			16.32.360-363		DHES (16.32.304)		DHES (16.32.304(2)(b))	



NAME OF INSTITUTIONAL SERVICE	DEFINITION OF SERVICE	MONTANA STATUTES (MCA)	ADMINISTRATIVE RULES OF MONTANA	NO. OF SERVI- CES	LICENSE AUTHORITY	CERTIFICATION AUTHORITY	INSPECTIONAL RESPONSIBILITY	COMMENTS
Long Term Care Facility (Continued)								See Data Sheet 
Personal Care	50-5-101 MCA	50-5-Part 1, 2	16.32.380-385		DHES (16.32.304)		DHES (16.32.304(2)(b))	
Intermediate Care for the Mentally Retarded								
Maternity Home	46.5.601(4) ARM	41-3-Part 5	46.5.601-619 46.5.117	1	SRS		SRS	
Mental Health Center	50-5-101 MCA	50-5-Part 1, 3	16.32.346	12	DHES (16.32.304)		DHES (16.32.304(2)(b))	
Outpatient Facility	50-5-Part 1 MCA	50-5-Part 1, 4	16.32.3555		DHES (16.32.304)		DHES (16.32.304(2)(b))	
Receiving Homes	46.5.601(3) ARM	41-3-501, 502,503	46.5.601-619	5	SRS			
Rehabilitation Facility	50-5-101 MCA	50-5-Part 1, 2	Adoptable by DHES (50-5-103)		DHES (50-5-201)		DHES (50-5-204)	
Roominghouse/Retirement Home	50-51-Part 1 MCA	50-50-Parts 1,2,3	16.10.601-625	69	DHES (50-51-201)		DHES (50-51-301)	
Semi-Independent Living Facilities					DI			

DHES — Department of Health and Environmental Sciences
SRS — Department of Social and Rehabilitative Services.
DI — Department of Institutions
Justice — Department of Justice



Name of institutional service: ACHIEVEMENT HOMES

Definition:

Montana Statutes: 41-3-Part 5, MCA
Administrative Rules: ARM 46.5.505-507
Number of Services: 4
License Authority: SRS (41-3-502, MCA)

Certification authority:

Inspectional Responsibility:

Comments:

General: These homes are long-term (usually no maximum length of stay) care, custody and treatment. Accept "youth in need of care" (abused or neglected), or "youth in need of supervision" (status offenders). Operated by local non-profit corporations. Licensed capacity of eight youths.

SRS: Originally developed in 1975 in response to closing of the Montana Children's Center at Twin Bridges. The homes received funding through a purchase of service contract with Youth Development Bureau plus a foster home payment from the Social Services Bureau for Care and Custody. As of July 1, 1981, all funding for A.H. comes from a foster care rate system. The homes were not established by state law or administrative code. They are local, non-profit corporations that provide care and treatment for troubled youth and their families.

DHES: There is no DHES involvement in the inspection of these homes. SRS may have facility requirements and may depend on local health department inspections, but there are no standards on which these inspections are based.



Name of institutional service: ADULT DAY CARE CENTER

Definition: 50-5-101, MCA - A facility, free-standing or connected to another health care facility, which provides adults, on an intermittent basis with the care necessary to meet the needs of daily living.

Montana Statutes: 50-5-Parts 1 and 2, MCA

Administrative Rules: Adoptable by DHES under 50-5-103 (no rules at present).

Number of Services: 0 (See DHES comment)

License Authority: DHES (50-5-201, MCA)

Certification authority:

Inspectional Responsibility: DHES (50-5-204, MCA)

Comments:

DHES: There are no free-standing providers. A few nursing homes are providing or planning to provide this service. There are no licensing regulations developed at this time.



Name of institutional service: ADULT FOSTER FAMILY CARE

Definition: 53-5-302 and 303, MCA - Private homes owned by one or more persons 18 years of age or older which offer light personal care or custodial care to disabled adults who are not related to the owner by blood or marriage or which offer light personal care or custodial care for aged persons. Offered to four or fewer adults 18 years of age or older who are aged or disabled.

Montana Statutes: 53-5-Part 3, MCA

Administrative Rules: ARM 46.5.701-703

Number of Services: 122

License Authority: SRS

Certification authority: Recommend and advise by Department of Justice (Fire Marshal) so SRS can license.

Inspectional Responsibility: These facilities are "supervised" by SRS (MCA 53-5-303)

Comments:

SRS: SRS now has 122 licensed Adult Foster Care homes. The payment rate ranges from \$313.70 to \$368.10 depending on service needs. This payment given to the client is made up of \$264.70 Social Security and the rest from SRS State Supplement.

DHES: The capacity of these homes should be limited to three (3) or less. These facilities which serve three or more individuals would become a Roominghouse/Retirement Home or a Personal Care Home depending on the degree of care given.



Name of institutional service: AFTERCARE HOMES

Definition:

Montana Statutes: 41-3-Part 5, MCA

Administrative Rules: SRS has historically been licensing but has no authority to promulgate rules.

Number of Services: 4

License Authority: SRS (41-3-502, MCA)

Certification authority:

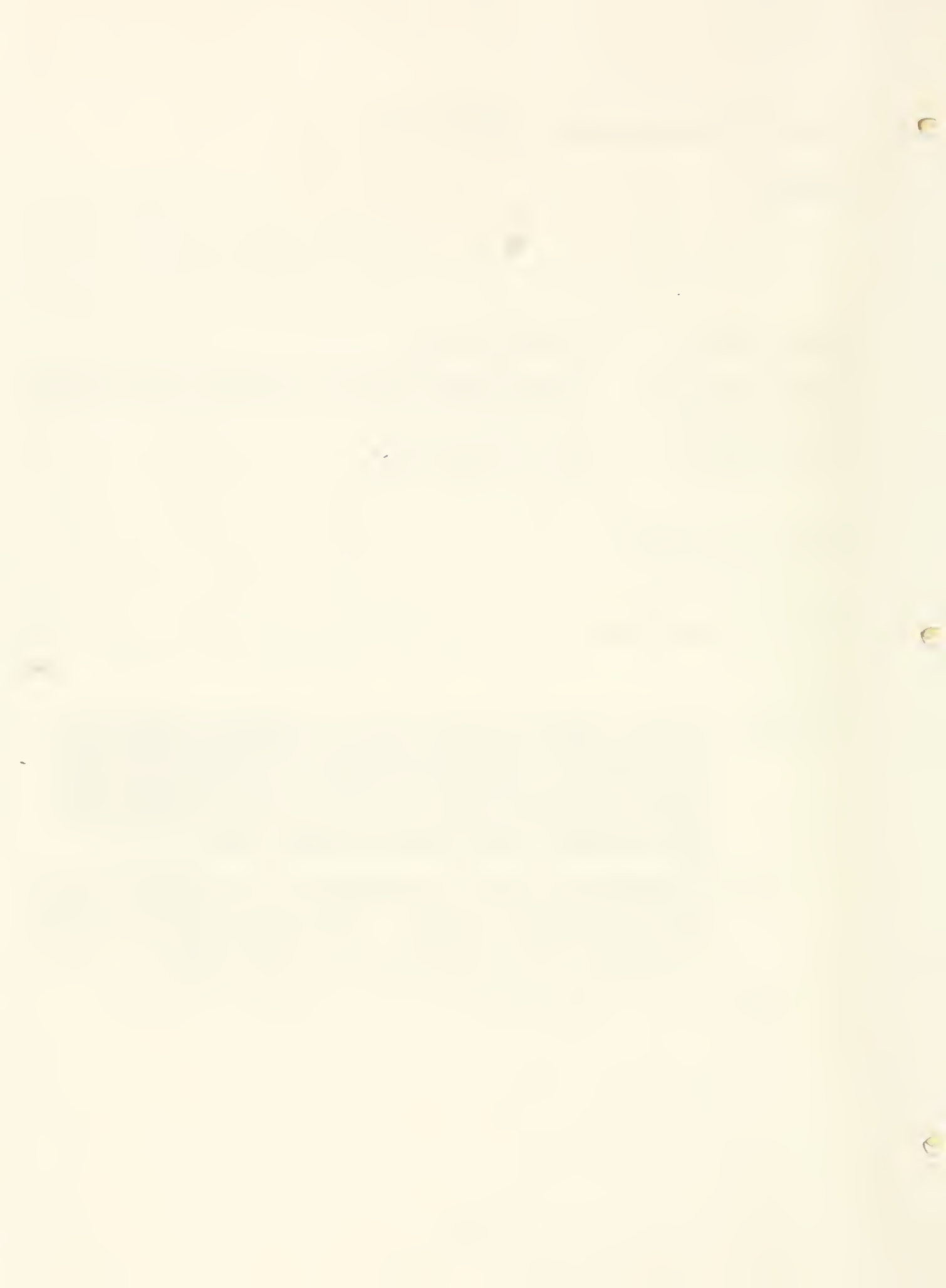
Inspectional Responsibility:

Comments:

General: Long-term (usually no maximum length of stay) care, custody and treatment. Accept youth who have been committed to the Department of Institutions. Most have already been in a state institution, but some have not. Youth are adjudicated "youth in need of supervision" or "delinquent youth". Most will not return home and are taught independent living skills. The homes are state-operated facilities with a licensed capacity of eight youths.

SRS: A relatively new type of care developed by the Department of Institutions Corrections Division because they could not get care for these children from other group homes. Judges are committing many kids to the Department of Institutions but not to an institution. Separate rules perhaps should be promulgated for Aftercare Homes.

DHES: There is no DHES involvement in the inspection of these homes.



Name of institutional service: ALCOHOL/DRUG TREATMENT PROGRAM

Definition: 53-24-103, MCA - "Approved private treatment facility" means a private, non-profit agency, receiving public funds (whose function is the treatment, rehabilitation, and prevention of alcoholism and drug dependence) meeting the standards prescribed in 53-24-208(1) and approved under 53-24-208.

"Approved public treatment facility" means: (a) a treatment agency operating under the direction and control of the department as a state agency and approved under 53-24-208; or (b) a treatment agency operating under the direction and control of a local government and approved under 53-24-208.

Montana Status: 53-24-Parts 1 and 2

Administrative Rules: ARM 20.3.101-216 (new)

Number of Services:

License Authority: Department of Institutions

Certification Authority: Department of Institutions (ARM 20.3.401-405 and MCA 53-24-204(g))

Inspectional Responsibility: Department of Institutions (53-24-208(3), MCA)

Comments:

D.I.: The "license" is actually an approval certificate for the treatment program only, not the facility. (53-24-204(2)(a), MCA) The "certification" is of staff persons only. The "inspection" by Department of Institutions is of the program only, not the facility. (53-24-208(3), MCA)

General: A program of eight (8) beds or less requires only a county health and local fire department signoff. Standards for residential programs, other than outpatient programs, of 8 beds or more require a facility or building inspection (Life Safety Code) from DHES under 50-5-201, MCA (if an in-hospital program) or 50-51-201, MCA (if a free-standing facility program). Other DHES licensure and inspection responsibilities are found in 50-5-204 and 50-51-301, MCA.

53-24-207, MCA states that a treatment program shall include the following: (a) Emergency Treatment (detoxification) (b) Inpatient (hospital and free-standing) (c) Intermediate Care (transitional living) and (d) Outpatient. These are defined in ARM 20.3.202 and are included in Appendix A under Alcohol/Drug Treatment Facilities.



Name of institutional service: ALCOHOL/DRUG TREATMENT FACILITY

Definition: 50-5-101, MCA - "Health care facility" means any institution, building, or agency or portion thereof, private or public, excluding federal facilities, whether organized for profit or not, used, operated, or designed to provide health services, medical treatment, or nursing, rehabilitative, or preventive care to any person or persons. The term does not include offices of private physicians or dentists. The term includes but is not limited to ambulatory surgical facilities, health maintenance organizations, home health agencies, hospitals, infirmaries, kidney treatment centers, long-term care facilities, mental health centers, outpatient facilities, public health centers, rehabilitation facilities, and adult day-care centers.

Montana Statutes: 50-5-201 and 204, MCA; 50-51-201 and 301, MCA

Administrative Rules: Adoptable by DHES under 50-5-103, MCA

Number of Services:

License Authority: DHES

Certification Authority:

Inspectional Responsibility: DHES

Comments:

DHES: The A/D facility is licensed by DHES, the A/D program is under the Department of Institutions.

DHES has licensed "Detoxification Centers" as Roominghouses when a facility inspection and license is needed and when such facilities are determined not to be personal care facilities.

General: See information on "A/D Treatment Program"
"Transitional Living Facilities" are a sub-category of Alcohol/Drug Treatment Facilities (see Appendix C - Services Chart).



Name of institutional service: TRANSITIONAL LIVING FACILITY

Definition: This is a sub-category of the Alcohol/Drug Treatment facility group.

Montana Statutes:

Administrative Rules:

Number of Services:

License Authority: Department of Institutions

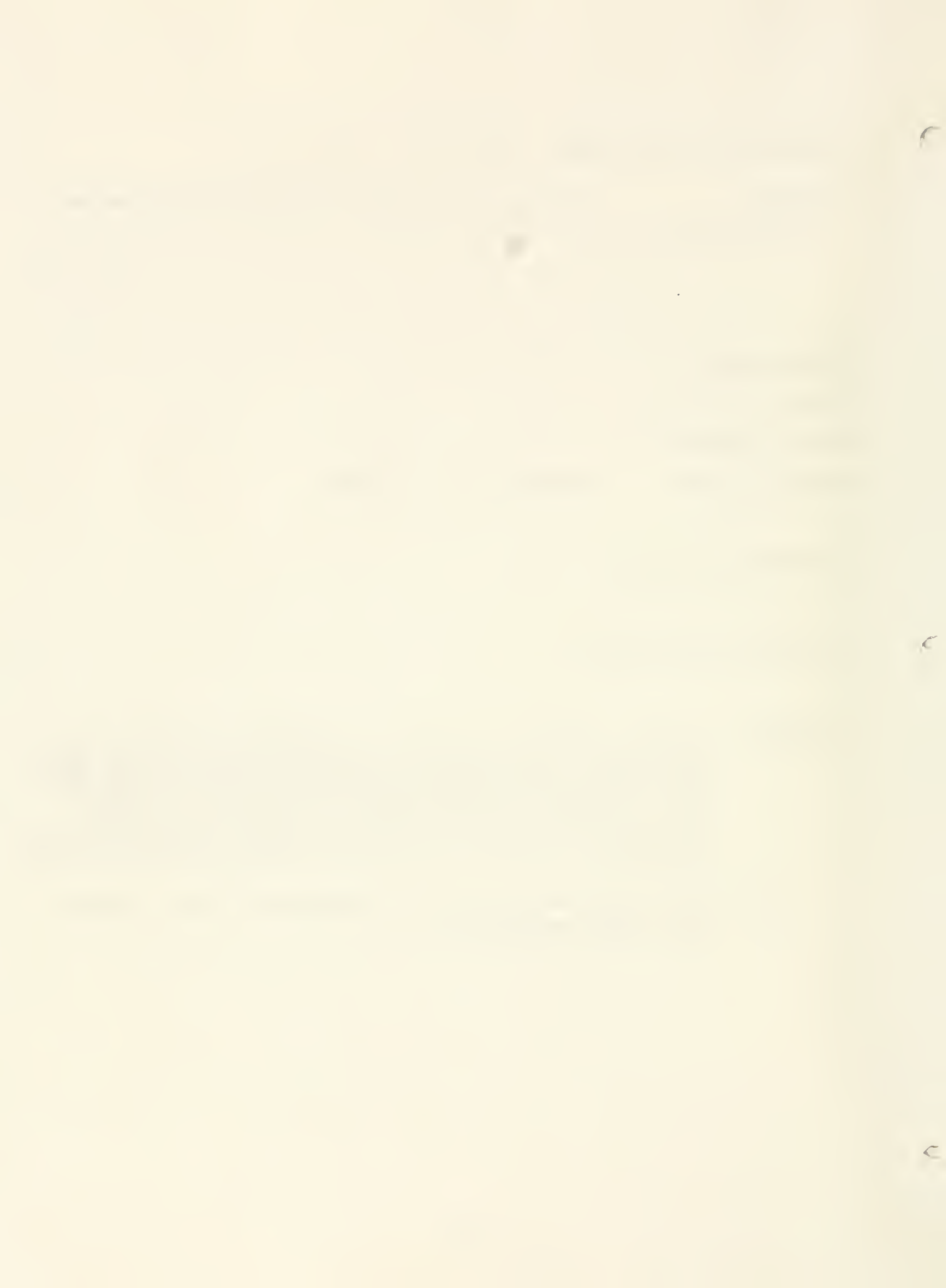
Certification authority:

Inspectional Responsibility:

Comments:

SRS: SRS makes supplemental payments to an individual's Social Security Supplemental Income payments for individuals living in these facilities if they have a Roominghouse/Retirement Home license from DHES also. Department of Institutions receives authority to license these facilities so they can truly have standards that meet the requirements of the facility and not the backdoor approach now being used.

DHES: DHES licenses these facilities as Roominghouses if they can meet the definition and standards.



Name of institutional service: ATTENTION HOMES (Shelter Care)

Definition: 41-5-103(18), MCA - "Shelter care" means the temporary care of youth in physically unrestricting facilities.

Montana Statutes: 41-5-306 and 41-5-801 and 802, MCA

Administrative Rules: ARM 46.5.505-507

Number of Services: 5

License Authority: SRS

Certification authority:

Inspectional Responsibility:

Comments:

General: Short-term (30 day maximum) care and custody used as an alternative to: (a) jail; (b) the street; (c) poor home environment; and (d) inappropriate placement. Accept all types of youth. Operated by local non-profit corporations. Licensed capacity maximum of 12 youth.

SRS: Attention Homes and "shelter care" are terms often used to describe the same program; however, the definition of shelter care in the MCA does not reflect what is happening in practice. All of the attention homes are local non-profit corporations that hire, fire, set salaries, etc. The Department of Institutions operates the shelter care reimbursement program for non-SRS kids. SRS makes payment for SRS kids.

While through the Youth Court Act (41-5-101 through 41-5-924) it is clear that SRS licensed foster homes may be used for shelter care (section 41-5-801), it is also clear in section 41-5-802 that the court or county commissioners may establish facilities for shelter care. Even though SRS has historically licensed these facilities under 41-3-501, MCA and ARM 46.5.505-6 and 7, there is no specific authority for SRS to license these facilities. Separate authority should be designated and rules promulgated.

DHES: There is a possibility of local health department involvement at the request of SRS.



Name of institutional service: CHILD ADOPTION AGENCY (Voluntary Child Placing)

Definition: ARM 46.5.401 (Eligibility Requirements) - Any agency whose chief function is the care and placement of minor children is a child placing agency and must be licensed.

Montana Statutes: 53-4-Part 4, MCA

Administrative Rules: ARM 46.5.401

Number of Services: 5

License Authority: SRS (53-4-402, MCA)

Certification authority: SRS

Inspectional Responsibility: Investigation of agencies by SRS

Comments:

General: These agencies are also called "Voluntary Child Placing Agencies".



Name of institutional service: CHILD CARE AGENCY

Definition: ARM 46.5.601 - Any foster or boarding home in which 13 or more children are retained at any one time for full-time care.

Montana Statutes: 41-3-Part 5, MCA

Administrative Rules: ARM 46.5.601-618

Number of Services: 5

License Authority: SRS (ARM 46.5.604)

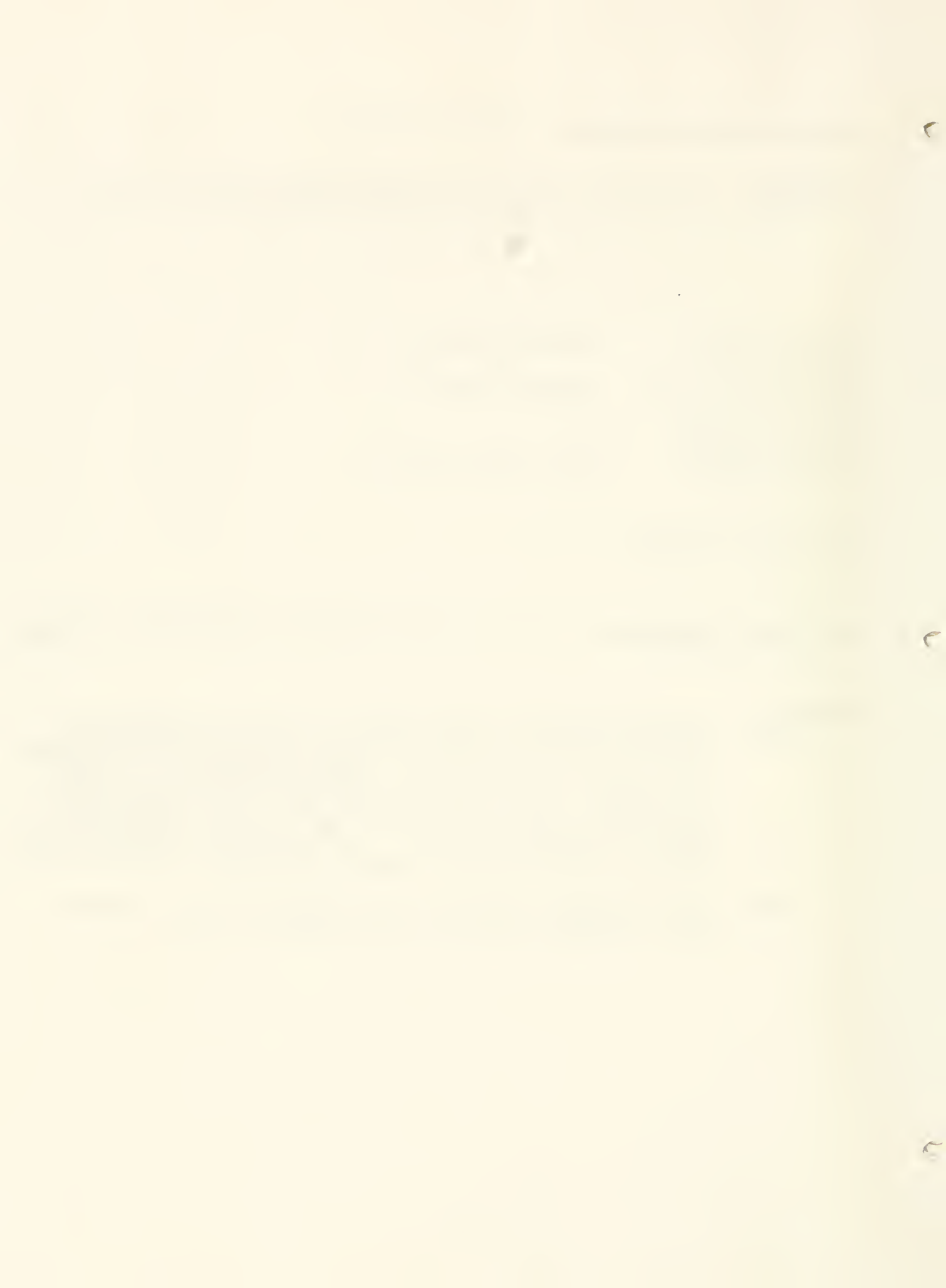
Certification authority:

Inspectional Responsibility: Justice (Fire Marshal); DHES - health; SRS - program (ARM 46.5.605(k))

Comments:

General: Long-term (usually no maximum length of stay) care, custody and treatment for primarily "youth in need of care" (abused or neglected), or "youth in need of supervision" (status offenders, i.e., incorrigible, truant, curfew violations, runaway, promiscuous or possession of alcohol). Accept some "delinquent youth". Some agencies have many treatment levels (i.e., Yellowstone Boys Ranch), some are specialized (i.e., Florence Crittenton). All are privately operated and are licensed to serve more than 12 youth in residence.

DHES: There is no DHES involvement in the inspections of these. Local health department involvement may be requested by SRS.



Name of institutional service: CHILD DAY CARE CENTER

Definition: 53-4-501, MCA - A place in which supplemental parental care is provided to 13 or more children on a regular basis.

Montana Statutes: 53-4-Part 5, MCA

Administrative Rules: ARM 16.24.401-405 (DHES); ARM 16.5.604 and 901 (SRS)

Number of Services: 126

License Authority: SRS (ARM 46.5.604 and 501(c))

Certification authority: Justice (Fire Marshal); DHES

Inspectional Responsibility: Justice, DHES, SRS, (licensing standards)

Comments:

General: ARM 16.24.401 - 405 are DHES rules for Day Care Centers with 13 or more kids. If the center has less than 13 kids, SRS will be the regulating agency under new legislation (HB 646) effective 10/1/81. (HB 646 is replacement language and still referred to in law as 53-4-Part 5, MCA)

SRS: New administrative rules implementing HB 646 have gone through hearing stage and will be promulgated by November 1, 1981.

Justice: Fire Marshal Bureau records indicate 45 day care center inspections were made in 1980.

DHES: In regard to certification and inspection: the local health department conducts training or inspects, then certifies to SRS so the home can be SRS licensed. DHES involvement occurs only at the request of SRS.



Name of institutional service: CHILDREN'S GROUP HOMES

Definition:

Montana Statutes:

Administrative Rules:

Number of Services:

License Authority:

Certification authority:

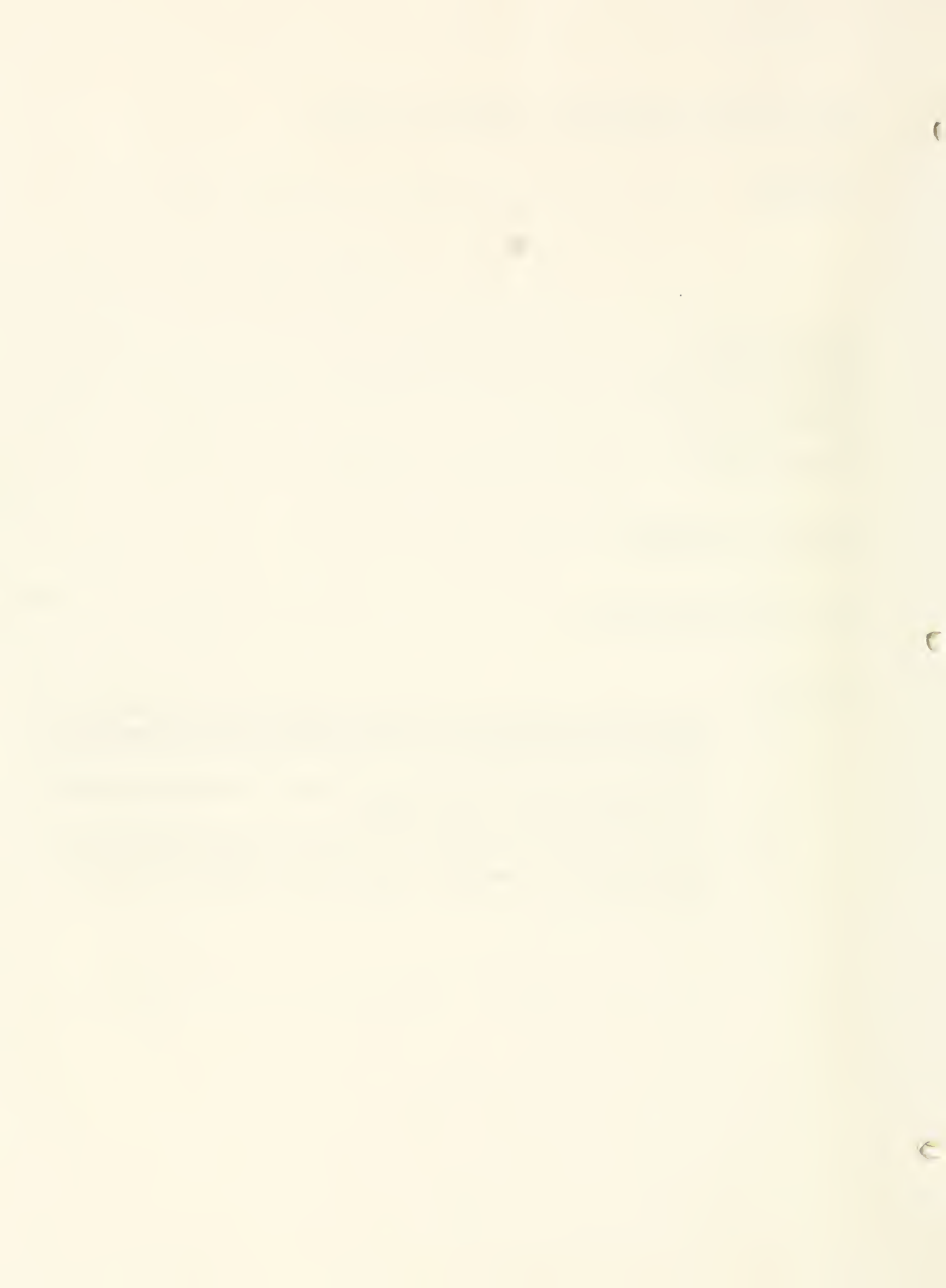
Inspectional Responsibility:

Comments:

SRS: These homes are covered by Achievement Homes, Aftercare Homes, Attention Homes (also called shelter care), District Youth Guidance Homes and Receiving Homes.

Justice: Fire Marshal Bureau records indicate seven (7) inspections of Group Homes (juvenile) were made in 1980.

DHES: In some regions SRS requests the local health department to inspect the home prior to licensure. There are no standards for these inspections.



Name of Institutional Service: COMMUNITY HOME FOR DEVELOPMENTALLY DISABLED

Definition: 53-20-302, MCA - "Community home" - limitation on number of residents... is a family-oriented residence or home designed to provide facilities for two to eight developmentally disabled persons, established as an alternative to existing state institutions. The number of developmentally disabled persons may not exceed eight in such a Community Home, except that the Department of Social and Rehabilitation Services may grant written approval for more than eight but not more than twelve persons.

Montana Statutes: 53-20-Part 3, MCA

Administrative Rules: DHES (health & safety); SRS (local control of DD home: ARM 46.5.801-803)

Number of Services: 67

License Authority: DHES and SRS (see ARM 46.5.802)

Certification Authority: Justice, DHES, then SRS funds the home.

Inspectional Responsibility: Local health department, DHES, SRS.

Comments:

General: 53-20-Part 3 is to state, effective 10/1/81, that SRS will adopt rules for DD homes with advice given by DHES regarding health and safety.

SRS: SRS now has rules for licensing Group Homes for the Developmentally Disabled. They will be licensed by our SRS district offices, after receiving certification from the state Fire Marshall's office and local health sanitarians. The local sanitarians can charge a fee for their services. We now have 66 licensed DD group homes. Individuals in these homes pay their \$264.70 SSI plus a state supplement from SRS for \$104 for a total of \$368.70. Forty dollars of this goes to the client for personal needs.

DHES: Homes with more than 8 beds require special SRS approval to increase capacity to 12 persons. Homes going beyond that should also require different DHES licensing. DHES will no longer license DD homes after 10/1/81. DHES will only be involved if local health department cannot complete certification in a timely manner.

Justice: Fire Marshall Bureau records indicate 114 homes for developmentally disabled inspections were made in 1980.



Name of institutional service: COOPERATIVE LIVING ARRANGEMENTS

Definition:

Montana Statutes:

Administrative Rules:

Number of Services:

License Authority: Department of Institutions

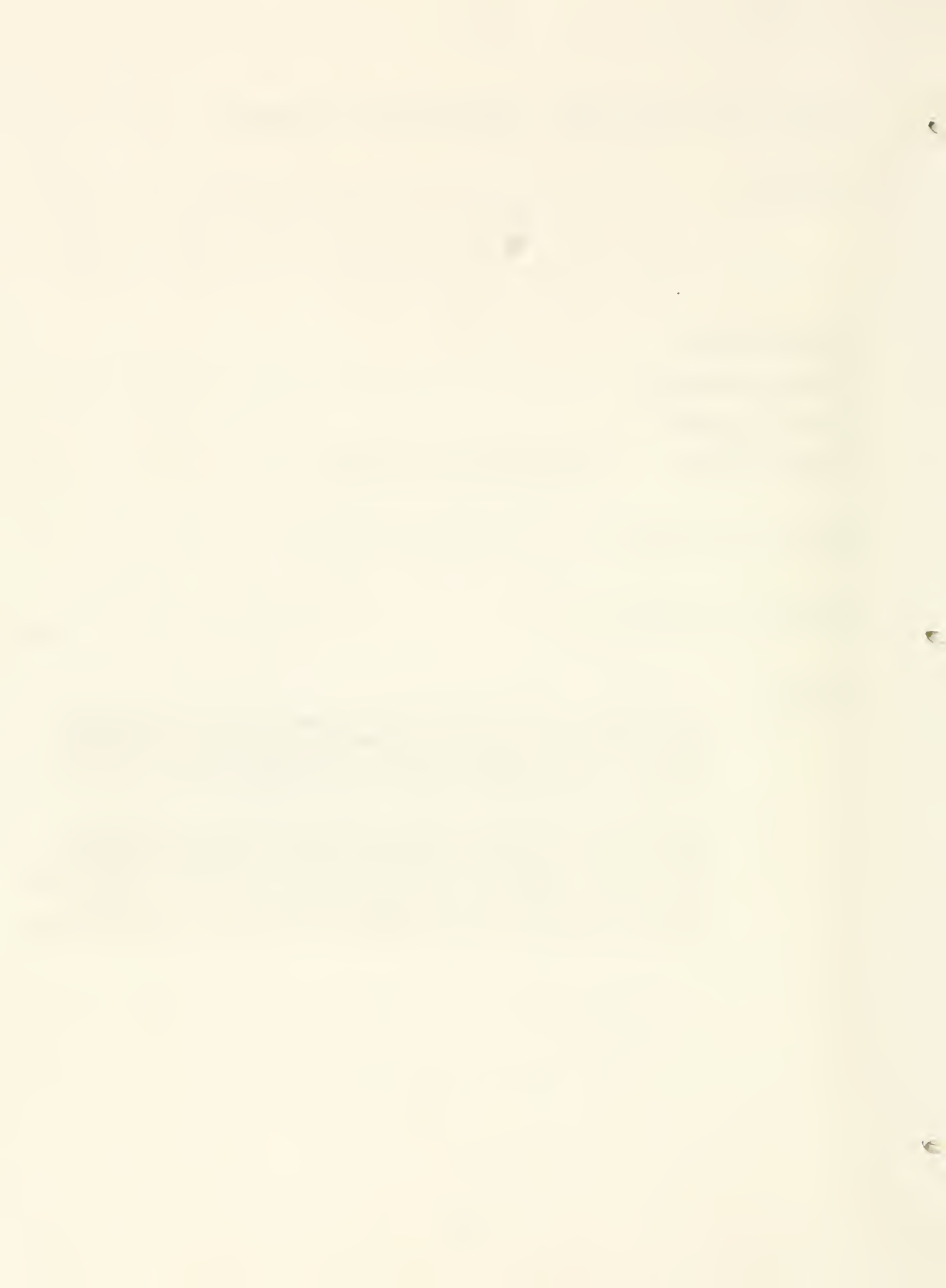
Certification authority:

Inspectional Responsibility:

Comments:

DHES: DHES licenses these facilities as Roominghouses only if they meet the definition of a Roominghouse/Retirement Home and comply with standards. The standards are new Hotel-Motel standards soon to be revised to include Roominghouse/Retirement Homes.

SRS: SRS really believes this type of facility should be specifically identified in the codes to protect people's Social Security Supplemental Income. If a group of people such as a group of elderly tried to get together for shared costs, as it now stands with no one in charge, the individual SSI payments are reduced. If this were a specific licensed living arrangement, this reduction would not occur.



Name of Institutional Service: DISTRICT YOUTH GUIDANCE HOME

Definition: 41-5-901, MCA - Establishment of district youth guidance home program. The Legislature, in recognition of the wide and varied needs of delinquent youths and youths in need of supervision of this state and of the desirability of meeting these needs on a community level to the fullest extent possible and in order to reduce the need for custodial care in existing state youth correctional facilities, establishes by this part a district youth guidance home program to provide facilities and services for the rehabilitation of delinquent youths and youths in need of supervision and establishes a program to provide such facilities and services through local non-profit corporations and the Department of Institutions.

Montana Statutes: 41-3-Part 5 and 9, MCA

Administrative Rules: Department of Institutions (41-5-902, MCA)

Number of Services: 9

License Authority: SRS (41-3-502, MCA)

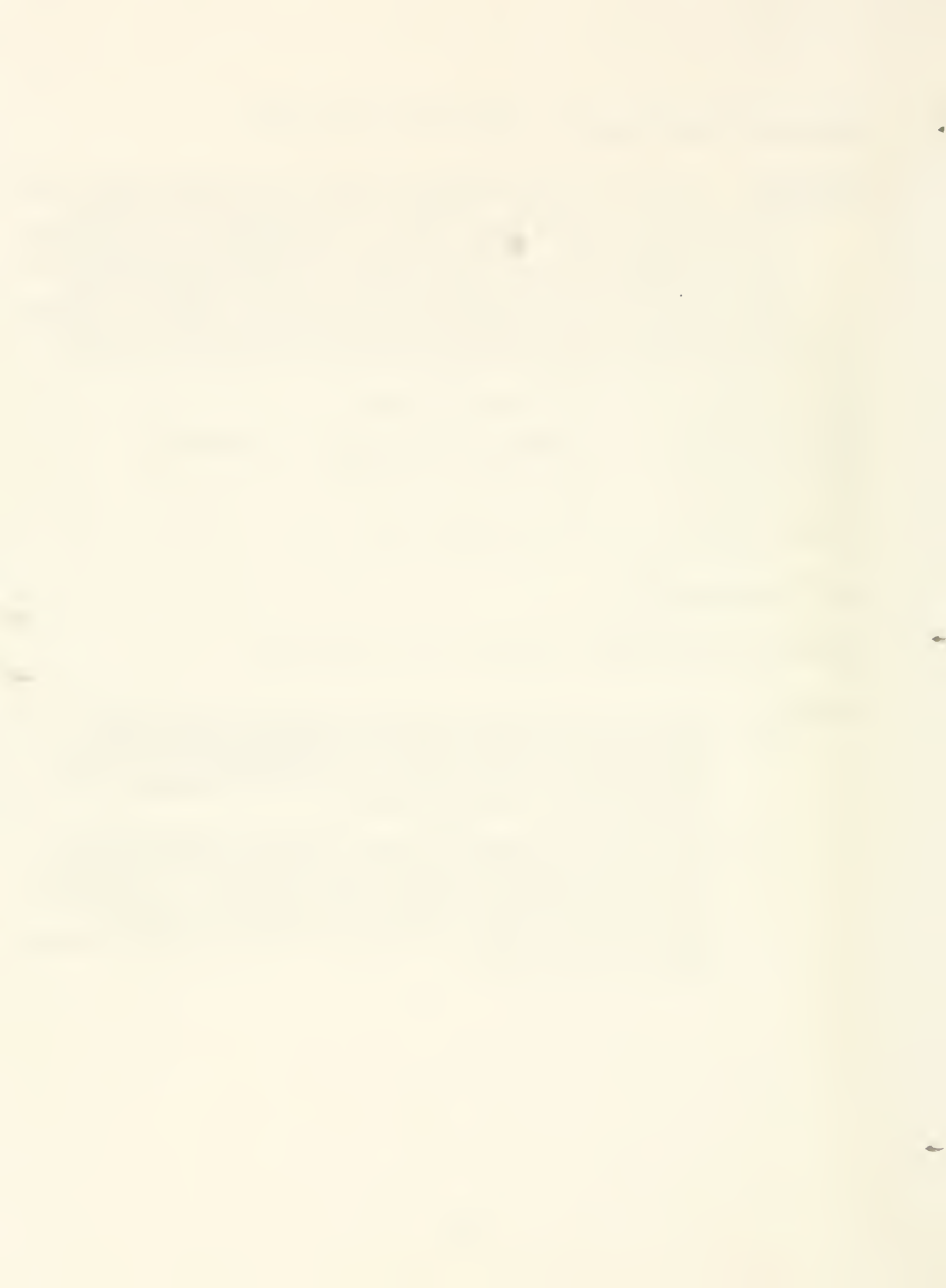
Certification Authority:

Inspectional Responsibility: SRS has done this historically.

Comments:

General: Long-term (usually no maximum length of stay) care and custody. Accept "youth in need of supervision" (status offenders), and "delinquent youth" with occasional "youth in need of care" (dependent, neglected). Operated by local non-profit corporations. Licensed capacity of eight (8) youth.

SRS: Under 41-3-504, MCA the Department of SRS has been doing licensing of these homes but SRS does not have the authority to promulgate the rules. A group home committee with providers, SRS, Institutions and others is currently looking at the whole issue of youth group home standards/licensing. Kathleen Harrington from Legislative Council is on the committee. We should clarify rule-making/licensing authority next session.



Name of Institutional Service: FAMILY DAY CARE HOME

Definition: 53-4-Part 5, MCA - A private residence in which supplemental parental care is provided to three to six children from separate families on a regular basis.

Montana Statutes: 53-4-Part 5, MCA

Administrative Rules: To be adopted by SRS for health and safety with assistance of DHES and for fire and life safety with assistance of Department of Justice (Fire Marshal).

Number of Services: 750

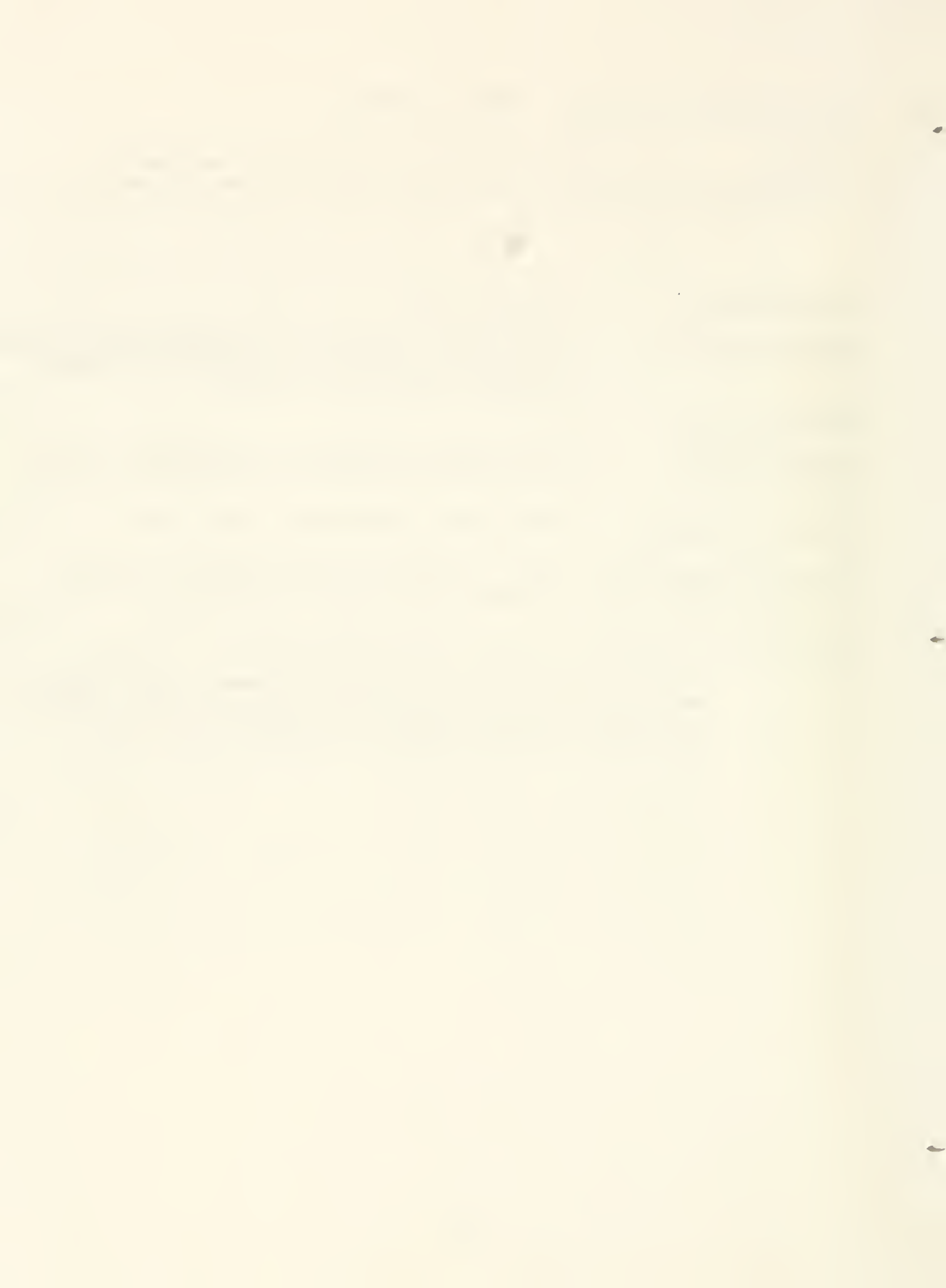
License Authority: No requirement for a license; simply register with SRS.

Certification Authority: SRS must issue a "Certificate of Registration".

Inspectional Responsibility: SRS must inspect 15% of "applications for registration" annually in each of Governor's multi-county planning regions.

Comments:

SRS: New administrative rules implementing HB 646 have gone through hearing stage and will be promulgated by November 1, 1981. Family and Group Day Care Homes will be registered (3-6 children in family, 7-12 children in group), and Day Care Centers will be licensed (more than 12 children in Centers).



Name of Institutional Service: FOSTER FAMILY CARE

Definition: 41-3-501, MCA - Any person owning or operating a home or institution into which home or institution he takes any child or children for the purpose of caring for them and maintaining them and for which care and maintenance he receives money or other consideration of value, and which child is neither his son, daughter, ward, nor related to him by blood, shall be deemed to be an "operator" of a "foster home or boarding home" within the meaning of this chapter, except that this chapter shall not apply when any person accepts such care and custody of such child on a temporary basis and simply as a temporary accommodation for the parent or parents, guardian, or relative of such child.

Montana Statutes: 41-3-Part 5, MCA

Administrative Rules: ARM 46.5.505-507

Number of Services: 900

License Authority: SRS (ARM 46.5.506)

Certification Authority:

Inspectional Responsibility: SRS (41-3-503, MCA)

Comments:

SRS: Some local probation offices have their own county money for foster care and are not using SRS licensed homes.

Justice: 41-5-802, MCA - covers foster homes used by the court. Foster Homes are used by the court for short-term (shelter care) and long-term placement. The court must enter into an agreement with SRS for funding of these placements. (Ref: 41-5-806, MCA)



Name of Institutional Service: FOSTER HOME

Definition: 41-3-501, MCA - Any person owning or operating a home or institution into which home or institution he takes any child or children for the purpose of caring for them and maintaining them and for which care and maintenance he receives money or other consideration of value, and which child is neither his son, daughter, ward, nor related to him by blood, shall be deemed to be an "operator" of a "foster home or boarding home" within the meaning of this chapter, except that this chapter shall not apply when any person accepts such care and custody of such child on a temporary basis and simply as a temporary accommodation for the parent or parents, guardian, or relative of such child. (2) The word "person" where used in this chapter shall include any individual, partnership, voluntary association, or corporation.

Montana Statutes: 41-3-Part 5, MCA

Administrative Rules: ARM 46.5.505-507

Number of Services: 900

License Authority: SRS (41-3-502, MCA)

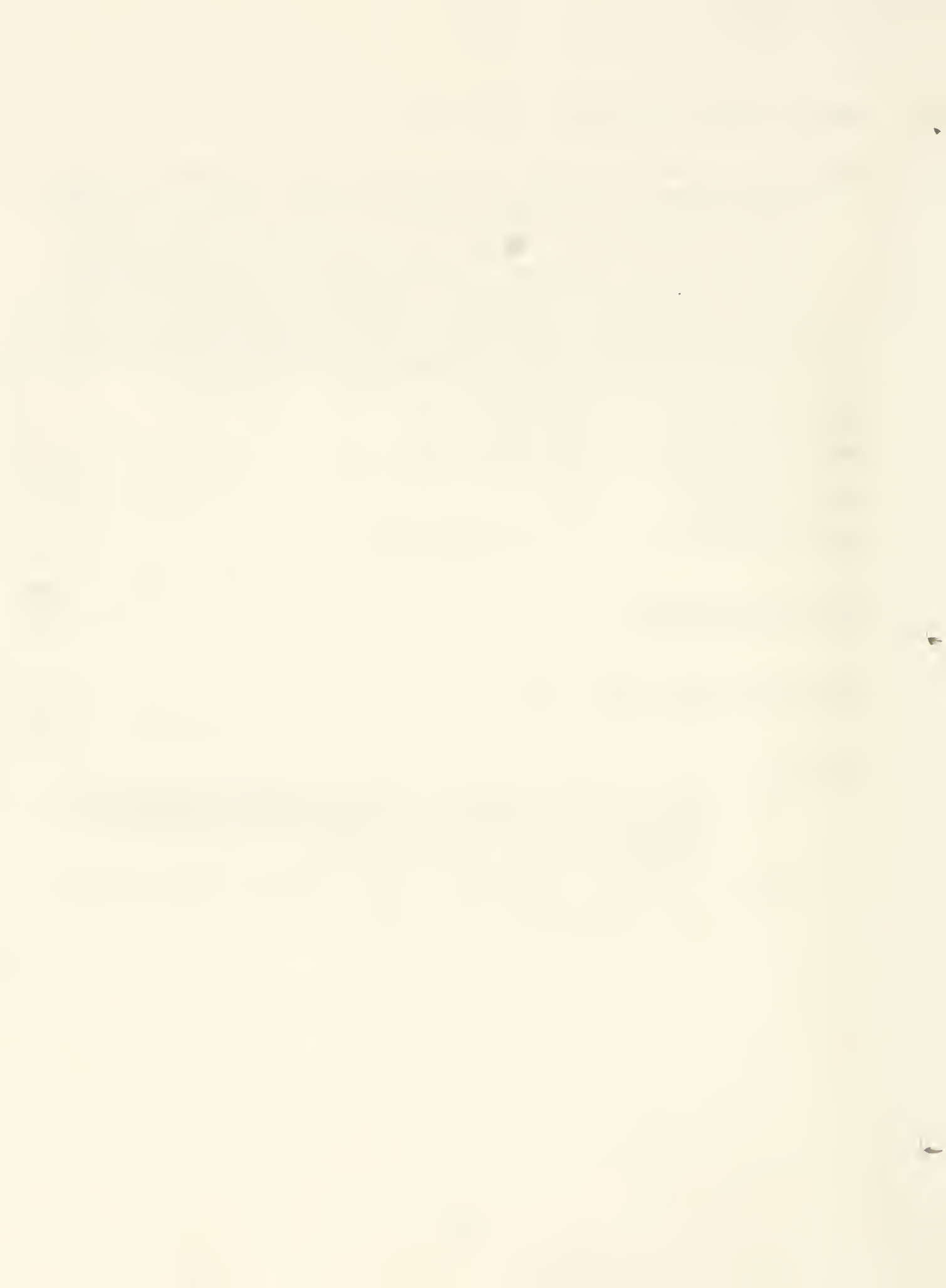
Certification Authority:

Inspectional Responsibility: SRS

Comments:

SRS: SRS is presently setting up a task force to work on revising the present foster care standards. We need separate standards for Foster Family Care, Group Homes and Treatment Facilities, etc. "Boarding Home" term is no longer used.

Justice: Fire Marshall Bureau records indicate nine (9) "foster, Old Folks, Etc." inspections were made in 1980.



Name of Institutional Service: GROUP DAY CARE HOME

Definition: 53-4-Part 5, MCA - (HB 646, effective 10/1/81) means a private residence in which supplemental parental care is provided to 7 to 12 children on a regular basis.

Montana Statutes: 53-4-Part 5, MCA

Administrative Rules: To be adopted by SRS for health and safety with assistance of DHES; fire and life safety with assistance of Department of Justice (Fire Marshal).

Number of Services: 8

License Authority: No requirement for licensure; simply register with SRS

Certification Authority: Must have a "Certificate of Registration" from SRS.

Inspectional Responsibility: SRS must inspect 15% of applicants annually in each of the Governor's multi-county planning regions.

Comments:

SRS: New administrative rules implementing HB 646 have gone through the hearing stage and will be promulgated by November 1, 1981.



Name of institutional service: GROUP HOMES

Definition:

Montana Statutes:

Administrative Rules:

Number of Services:

License Authority:

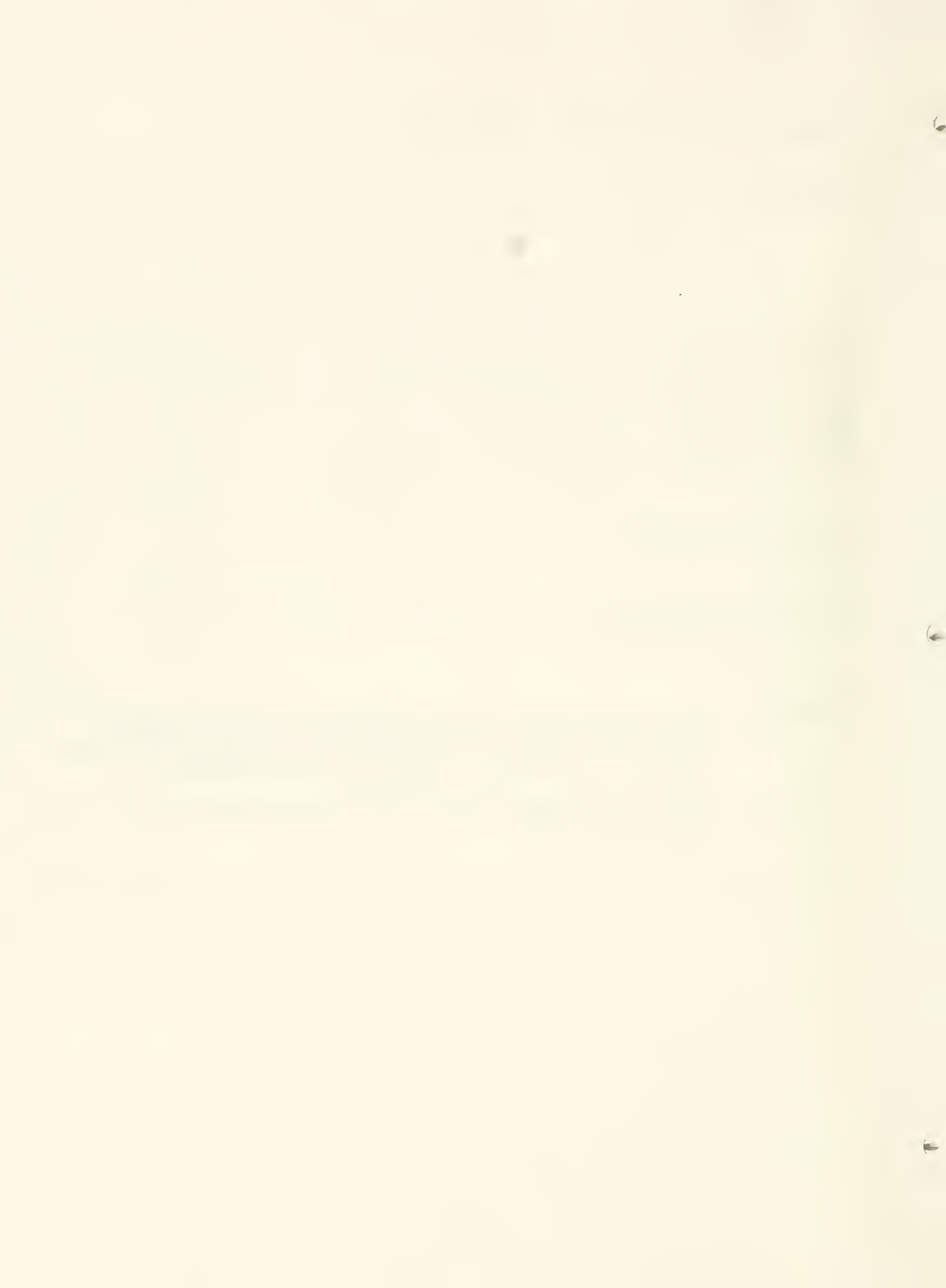
Certification authority:

Inspectional Responsibility:

Comments:

SRS: This section could be dropped. It refers to small grants from Youth Justice Council for "supplementary" services in group homes for youth. This source of funds is no longer available.

Justice: This is covered under "District Youth Guidance Homes" and "Achievement Homes".



Name of institutional service: HEALTH MAINTENANCE ORGANIZATION

Definition: 42 CFR 405.2001-2007 - For Title XVIII purposes, an HMO is defined as a legal entity which provides health services on a prepayment basis to its enrolled members in a manner prescribed by section 1301(b) of the PHS Act (42 U.S.C. 300e).

Montana Statutes: 50-5-Part 1, MCA

Administrative Rules:

Number of Services: 0

License Authority: DHES (ARM 16.32.304)

Certification authority:

Inspectional Responsibility: DHES (ARM 16.32.304(2)(b))

Comments:

General: See requirements in 42 CFR 405.2001-2007. Also see 42 U.S.C. 300e.



Name of Institutional Service: HOME HEALTH AGENCY

Definition: 42 CFR 405, Subpart L,...The term "Home Health Agency" means a public agency or private organization, or a subdivision of such an agency or organization which (1) is primarily engaged in providing skilled nursing services and other therapeutic services...(see 42 CFR 405.1201 for full definition); and 50-5-101(12), MCA, A public agency or private organization or subdivision thereof which is engaged in providing home health services to individuals in the places where they live. Home health services must include the services of a licensed registered nurse and at least one other therapeutic service and may include additional support services.

Montana Statutes: 50-5-101, MCA

Administrative Rules:

Number of Services: 17

License Authority: DHES (ARM 16.32.304)

Certification Authority:

Inspectional Responsibility: DHES (ARM 16.32.304(2)(b))

Comments:

General: Minimum standards for licensure are in 42 U.S.G. 1395 x (o). Also see Conditions of Participation in 42 CFR 405, Subpart L.

SRS: The Medicaid Financing Bureau of SRS has both federal regulations and state regulations for Home Health Agencies. Federal regulations 42 CFR 405.1220 and 42 CFR 441.15 as well as state regulation ARM 46.12.552 refer to reimbursements under Medicaid. Medicare certification is required for Medicaid (see ARM 46.12.551).

Name of Institutional Service: HOSPITAL

Definition: 50-5-101, MCA - A facility providing, by or under the supervision of licensed physicians, services for medical diagnosis, treatment, rehabilitation, and care of injured, disabled, or sick persons. Services provided may or may not include obstetrical care, emergency care, or any other service as allowed by state licensing authority. A hospital has an organized medical staff which is on call and available within 20 minutes, 24 hours per day, 7 days per week, and provides 24-hour nursing care by licensed registered nurses. This term includes hospitals specializing in providing health services for psychiatric, mentally retarded, and tubercular patients.

Montana Statutes: 50-5-Part 1, MCA

Administrative Rules: ARM 16.32.320-330

Number of Services: 61

License Authority: DHES (ARM 16.32.304)

Certification Authority:

Inspectional Responsibility: DHES (ARM 16.32.304(2)(b))

Comments:

SRS: The certifications for reimbursement to hospitals for reasonable cost of inpatient services under Medicaid is given in federal regulation 42 CFR 447.261-262 and SRS rules ARM 46.12.503. (Inpatient services are defined in 42 CFR 440.10.)

Name of institutional service: INDEPENDENT LIVING HOME

Definition:

Montana Statutes: 41-3-Part 5, MCA

Administrative Rules: ARM 46.5.505

Number of Services: 1

License Authority: SRS (41-3-502, MCA)

Certification authority:

Inspectional Responsibility:

Comments:

General: Long-term (one year) program for older youth who will not be returning to their family or to an alternative living arrangement such as foster care. This is a new concept in Montana. Accepts youth who are ready to become emancipated. The program teaches skills to youth who will soon be living on their own. (e.g., Last Chance Youth Home - Helena)

SRS: Separate rules should perhaps be promulgated for independent living. There is no specific reference to these facilities in either the law or code.

DHES: Some of these homes may be licensed as Roominghouses if they meet definition and standards and request a license.

Name of institutional service: INFIRMARY

Definition: 50-5-101, MCA - A facility located in a university, college, government institution, or industry for the treatment of the sick or injured, with the following subdefinitions: (a) an "infirmary - A" provides outpatient and inpatient care; (b) an "infirmary - B" provides outpatient care only.

Montana Statutes: 50-5-Part 1, MCA

Administrative Rules: ARM 16.32.340

Number of Services: 2

License Authority: DHES (ARM 16.32.304)

Certification authority:

Inspectional Responsibility: DHES (ARM 16.32.304(2)(b))

Comments:

Name of institutional service: INTENSIVE CARE TREATMENT CENTERS

Definition:

Montana Statutes:

Administrative Rules:

Number of Services: 3

License Authority: SRS

Certification authority:

Inspectional Responsibility:

Comments:

General: Long-term (dependent upon individual response to treatment) care, custody and treatment. Accept severely emotionally disturbed youth. Provide a physically secure environment and highly structured treatment regime. Licensed for more than 12 youth in residence.

Justice: A specific law authorizing these centers is uncertain. These centers appear to come under the general heading of foster care or group care.

SRS: The Medicaid Program reimburses for "inpatient psychiatric services for individuals under age 21 in psychiatric facilities or programs." Such facilities are commonly referred to as residential treatment centers. 42 CFR 440.60 subpart D of 42 CFR specifies requirements for reimbursement including accreditation by the Joint Commission on Accreditation of Hospitals (JCAH). Yellowstone Boy's Ranch is the only state facility that qualifies. Montana State Plan provides for reimbursement, however the ARM does not include this service.

Name of institutional service: KIDNEY TREATMENT CENTER

Definition: 50-5-101, MCA - A facility which specializes in treatment of kidney diseases, including freestanding hemodialysis units.

Montana Statutes: 50-5-Part 1, MCA

Administrative Rules: ARM 16.32.396

Number of Services: 4

License Authority: DHES (ARM 16.32.304)

Certification authority:

Inspectional Responsibility: DHES (ARM 16.32.304(2)(b))

Comments:

General: See requirements in 42 CFR 405 Subpart U.

SRS: Medicaid reimburses for Kidney Treatment Center Services if the center has been certified by the secretary of HHS to provide the services under Medicare. Montana has no freestanding units - all centers are hospital based and certified to provide services under Medicare.

Name of institutional service: SKILLED NURSING CARE FACILITY

Definition: 50-5-101, MCA (See "LONG-TERM CARE FACILITY" for definition)

Montana Statutes: 50-5-Parts 1, 2 and 4, MCA

Administrative Rules: ARM 16.32.360-363

Number of Services:

License Authority: DHES (ARM 16.32.304)

Certification authority:

Inspectional Responsibility: DHES (ARM 16.32.304(2)(b))

Comments:

General: "Skilled nursing care" is a degree of care which may be provided in a long-term care facility.

SRS: Certification for reimbursement to a Skilled Nursing Care Facility under Medicaid is given in federal regulations 42 CFR 442.101 and SRS rules ARM 46.12.1201-1206. The certifying authority for reimbursement for SN facilities is the Secretary of Health and Human Services.

SRS contracts with DHES to survey for compliance with the federal regulations regarding standards for payment for skilled and intermediate services.

Name of Institutional Service: LONG-TERM CARE FACILITY

Definition: 50-5-101, MCA - "Long-term care facility" means a facility or part thereof which provides skilled nursing care or intermediate nursing care to a total of two or more persons or personal care to more than three persons who are not related to the owner or administrator by blood or marriage, with these degrees of care defined as follows: (i) "Skilled nursing care" means the provision of nursing care services, health-related services, and social services under the supervision of a licensed registered nurse on a 24-hour basis. (ii) "Intermediate nursing care" means the provision of nursing care services, health-related services, and social services under the supervision of a licensed nurse to patients not requiring 24-hour nursing care. (iii) "Personal care" means the provision of services and care which do not require nursing skills to residents needing some assistance in performing the activities of daily living.

Montana Statutes: 50-5-Part 1 and 2, MCA

Administrative Rules: Adoptable by DHES under 50-5-103, MCA

Number of Services: 94

License Authority: DHES (50-5-201, MCA)

Certification Authority:

Inspectional Responsibility: DHES (50-5-204)

Comments:

DHES: It may be advantageous to add "Intermediate Care Facility for Mentally Retarded" to present Long-Term Care statutes. At a minimum, adoption of 42 CFR Chapter IV, Subpart G, as licensing regulations should be considered.

Name of institutional service: INTERMEDIATE CARE FACILITY

Definition: 50-5-101, MCA (See "LONG-TERM CARE FACILITY" for definition)

Montana Statutes: 50-5-Parts 1, 2 and 4, MCA

Administrative Rules: ARM 16.32.360-363

Number of Services:

License Authority: DHES (ARM 16.32.304)

Certification authority:

Inspectional Responsibility: DHES (ARM 16.32.304(2)(b))

Comments:

General: "Intermediate Care" is a degree of care which may be provided in a long-term care facility.

SRS: Certification for reimbursement to an Intermediate Care Facility under Medicaid is given in federal regulations 42 CFR 442.101 and SRS rules ARM 46.12.1201-1206. The certifying authority for reimbursement for Intermediate Care Facilities is DHES.

SRS contracts with DHES to survey for compliance with the federal regulations regarding standards for payment for skilled and intermediate services.

Name of institutional service: PERSONAL CARE FACILITY

Definition: 50-5-101, MCA (See "LONG-TERM CARE FACILITY" for definition)

Montana Statutes: 50-5-Parts 1 and 2, MCA

Administrative Rules: ARM 16.32.380-16.32.385

Number of Services:

License Authority: DHES (ARM 16.32.304)

Certification authority:

Inspectional Responsibility: DHES (ARM 16.32.304(2)(b))

Comments:

General: "Personal Care" is a degree of care which may be provided in a long-term care facility.

SRS: My comment in this area is that from about 1976 until the present time, SRS has had no provision to pay for Personal Care Facility services except a supplementation to an individual's Social Security Supplemental income check in the amount of \$104 per month. The Social Security payment of \$264.70 plus the \$104 state supplement only equals \$368.70 of which \$40 is given to client for personal needs so the facility only gets \$328.70. No facility can meet the standards as listed here with such a limited payment. (See Social Services Manual Section 403-1 through 403-7) Payments can not again be made by Medicaid (Title 19) if money was appropriated for this purpose.

Name of institutional service: MATERNITY HOME

Definition: ARM 46.5.601(4) - A child care agency of which the primary function is to provide care and maintenance of girls and women during pregnancy, childbirth, and post-natal periods.

Montana Statutes: 41-3-Part 5, MCA

Administrative Rules: ARM 46.5.601-619 and 46.5.117

Number of Services: 1

License Authority: SRS

Certification authority:

Inspectional Responsibility: SRS

Comments:

Name of institutional service: MENTAL HEALTH CENTER

Definition: 50-5-101, MCA - A facility providing services for the prevention or diagnosis of mental illness, the care and treatment of mentally ill patients or the rehabilitation of such persons, or any combination of these services.

Montana Statutes: 50-5-Parts 1 and 3, MCA

Administrative Rules: ARM 16.32.346

Number of Services: 12

License Authority: DHES (ARM 16.32.304)

Certification authority:

Inspectional Responsibility: DHES (ARM 16.32.304(2)(b))

Comments:

General: The term "Mental Health Center" is synonymous with Mental Health and Retardation Facility. These terms include such facilities as Community Mental Health Facility, Community Mental Retardation Facility, Narcotic Treatment Center, and Alcoholism Treatment Center.

SRS: At the present time, SRS does not have contracts with any Mental Health Centers. A determination is being made as to whether SRS will contract with the Centers or Department of Institutions. The federal regulations do not speak specifically about mental health centers but speak to "clinic services". See comments under Out-patient Facilities.

Name of institutional service: OUTPATIENT FACILITY

Definition: 50-50Part 1, MCA - A facility, located in or apart from a hospital, providing, under the direction of a licensed physician, either diagnosis or treatment, or both, to ambulatory patients in need of medical, surgical, or mental care. An outpatient facility may have observation beds.

Montana Statutes: 50-5-Parts 1 and 4, MCA

Administrative Rules: ARM 16.32.355

Number of Services:

License Authority: DHES (ARM 16.32.304)

Certification authority:

Inspectional Responsibility: DHES (ARM 16.32.304(2)(b))

Comments:

General: This includes Ambulatory Surgical Facility. (A facility, not part of a hospital, which provides surgical treatment to patients not requiring hospitalization. This type of facility may include observation beds for patient recovery from surgery or other treatment.)

SRS: "Outpatient Facility" in terms of Medicaid definition is addressed in 42 CFR 440.20. Certification for reimbursement under Medicaid is addressed in SRS rules ARM 46.12.506.

Name of institutional service: RECEIVING HOMES

Definition: ARM 46.5.601(3) - A child care agency which regularly receives children under temporary conditions until the court or probation office, the Department of Social and Rehabilitation Services, or other appropriate social agency has made other provisions for their care.

Montana Statutes: 41-3-501, 502, 503, MCA

Administrative Rules: ARM 46.5.601-619

Number of Services: 5

License Authority: SRS

Certification authority:

Inspectional Responsibility:

Comments:

General: Short-term emergency care and custody for "children or youth in need of care" who have been neglected, abused or temporarily abandoned. Operated by local non-profit corporations. Licensed capacity of 12 children.

SRS: These homes usually take "younger age" children. We should probably promulgate separate rules for Receiving Homes.

Justice: Most of these facilities are now operating as shelter care facilities, i.e., Attention Homes.

Name of institutional service: REHABILITATION FACILITY

Definition: 50-5-101, MCA - A facility which is operated for the primary purpose of assisting in the rehabilitation of disabled persons by providing comprehensive medical evaluations and services, psychological and social services, or vocational evaluation and training or any combination of these services in which the major portion of the services is furnished within the facility.

Montana Statutes: 50-5-Parts 1 and 2, MCA

Administrative Rules: Adoptable by DHES under 50-5-103, MCA

Number of Services:

License Authority: DHES (under 50-5-201, MCA)

Certification authority:

Inspectional Responsibility: DHES (under 50-5-204, MCA)

Comments:

Name of institutional service: ROOMINGHOUSE/RETIREMENT HOME

Definition: 50-51-Part 1, MCA - Means buildings in which separate sleeping rooms are rented providing sleeping accommodations for three or more persons on a weekly, semimonthly, monthly, or permanent basis whether or not meals or central kitchens are provided but without separated cooking facilities or kitchens within each room, and whose occupants do not need professional nursing services on a full-time basis.

Montana Statutes: 50-51-Parts 1, 2 and 3, MCA

Administrative Rules: ARM 16.10.601-625

Number of Services: 69 licenses issued in 1980.

License Authority: DHES (50-51-201, MCA)

Certification authority:

Inspectional Responsibility: DHES (50-51-301, MCA)

Comments:

General: "Roominghouse" is a term used in the title of the regulation to be consistent with the law, but roominghouses/retirement homes are not addressed in the regulation as a separate entity. This is currently being corrected. The rule revision as proposed would technically add a roominghouse sub-category called "residential care facility" but realistically, only making the present rule more restrictive to remove licensing of efficiency apartments. FCS Bureau of DHES has presently licensed under this title places such as Mental Health Centers, Detoxification Centers, and Transitional Living Facilities.

SRS: To fill in the gap for personal care services when Medicaid (Title 19) could no longer make vendor payments for personal care, SRS devised a personal care supplementation plan whereby if a person is living in an adult foster care home licensed by SRS or a room and board home licensed under this section, SRS would contract with the individual, the provider and SRS to pay the cost of care with the individual Social Security Supplemental income check and a state supplement ranging from \$49 to \$104 depending on service needs. (See attached manual section for further details) State supplement monies come from the state general fund appropriated to SRS. (See SRS Manual section 403-1 through 407-7)

Name of institutional service: SEMI-INDEPENDENT LIVING FACILITIES

Definition:

Montana Statutes:

Administrative Rules:

Number of Services:

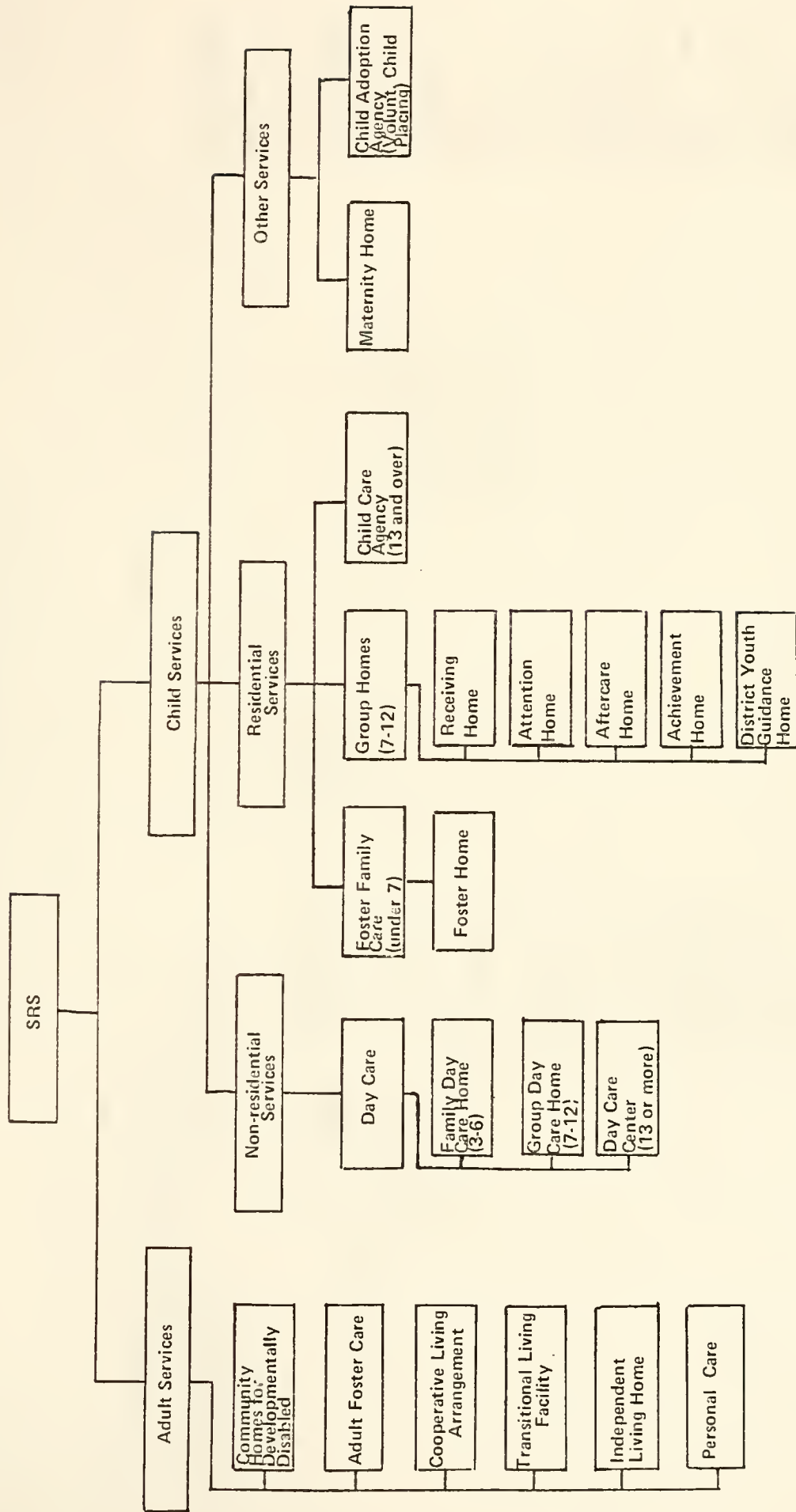
License Authority:

Certification authority:

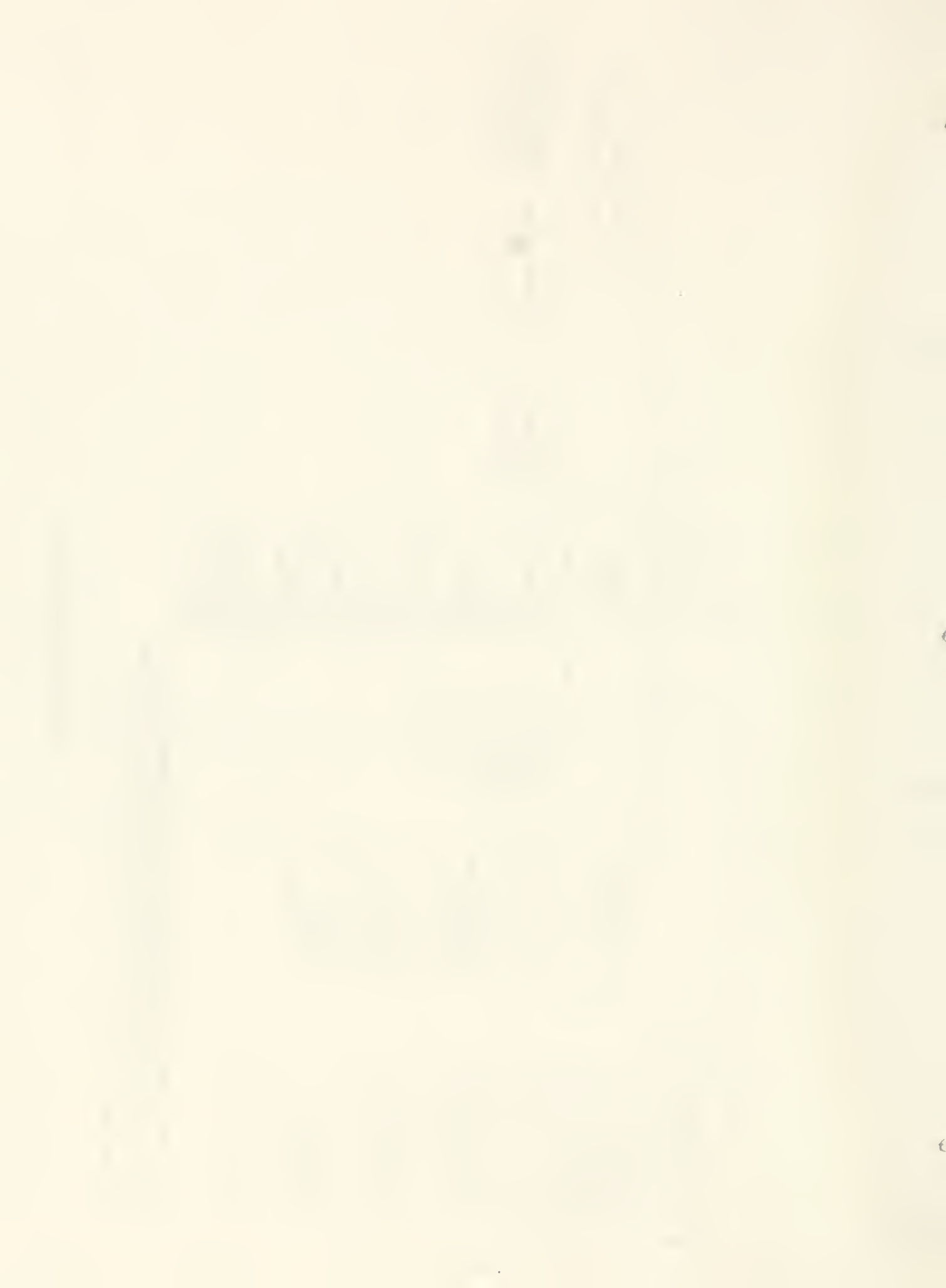
Inspectional Responsibility:

Comments:

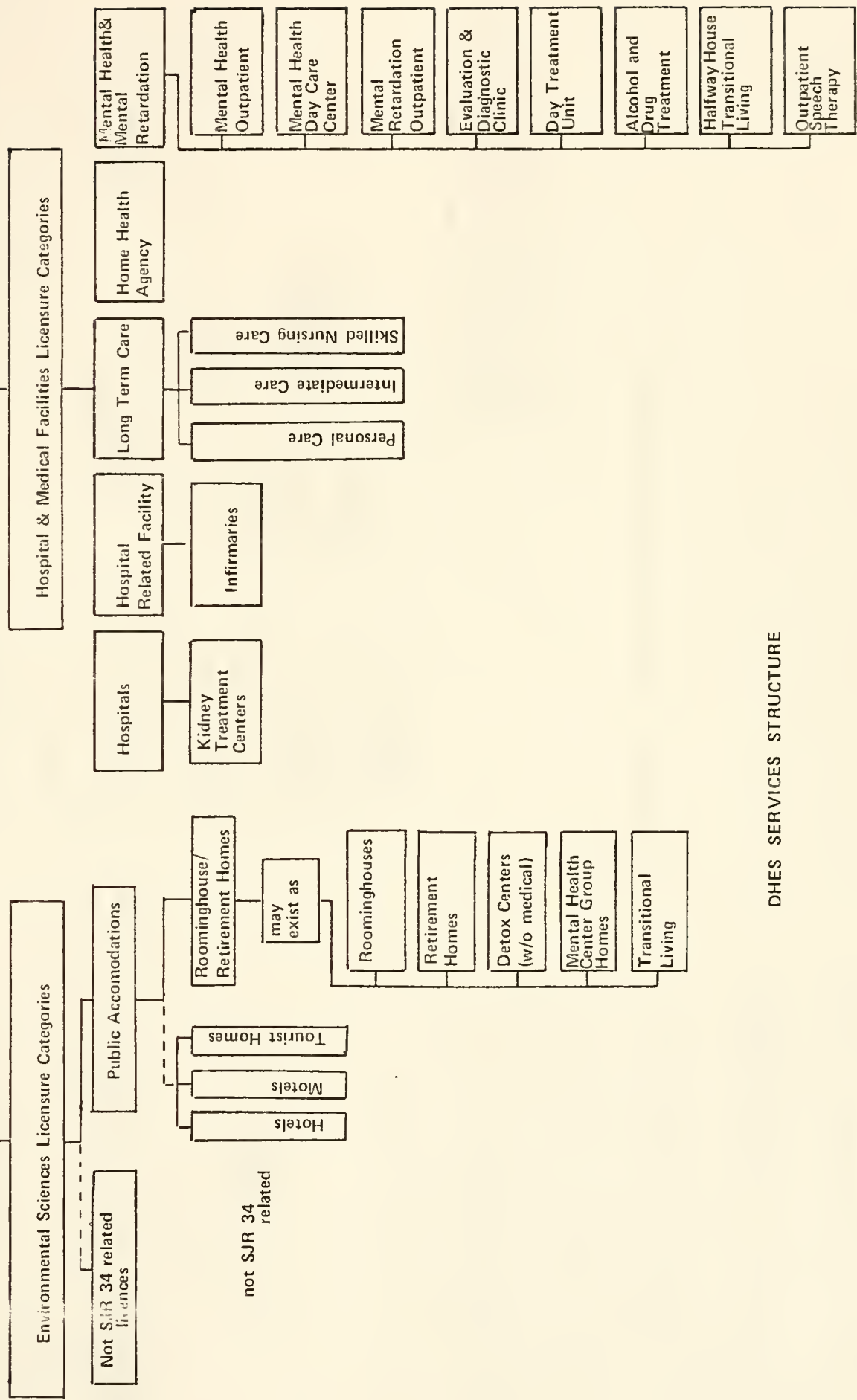
DHES: Some of these may be licensed as Roominghouses if the facility can meet the definition and standards and if Department of Institutions requests licensure.



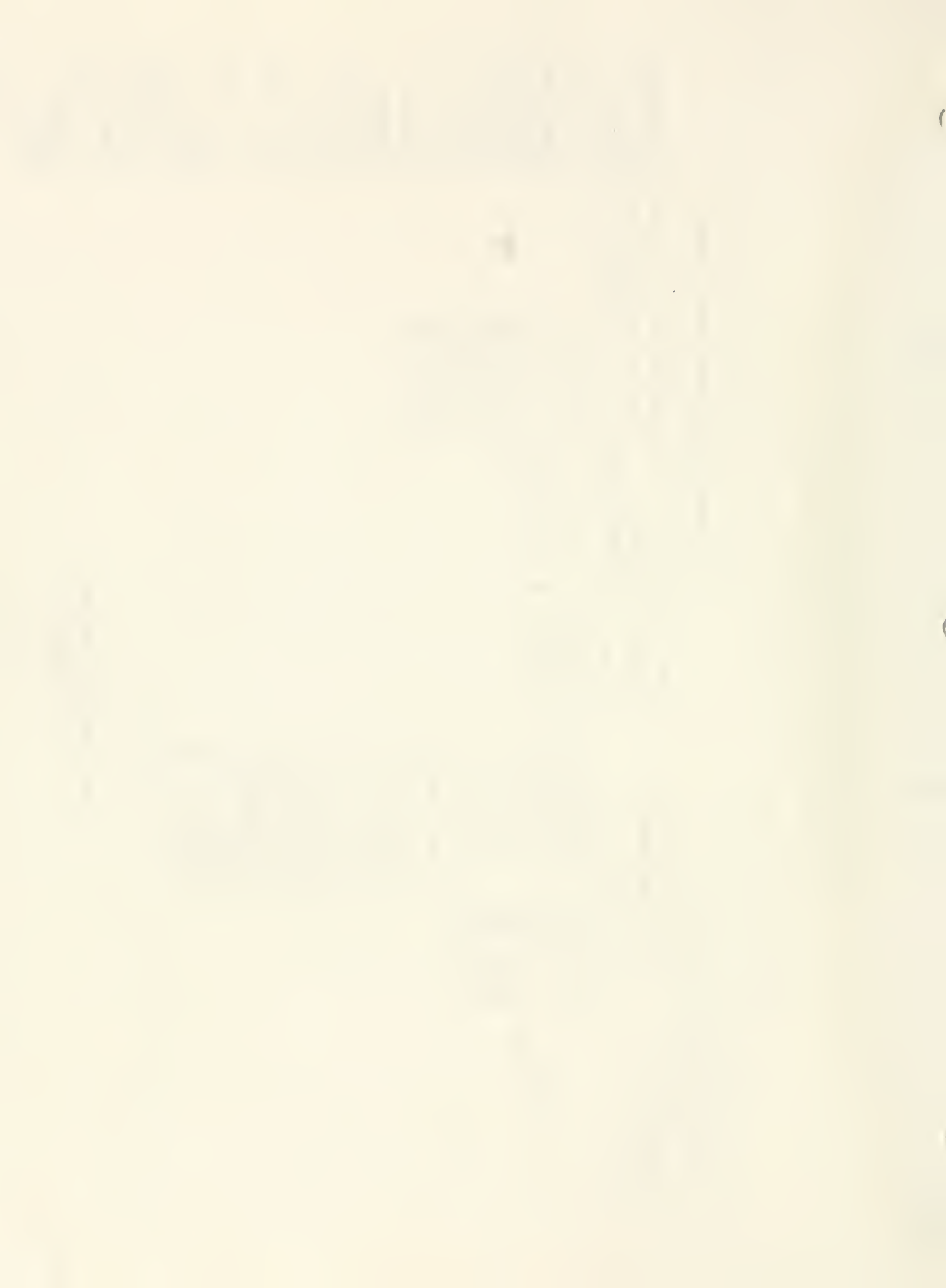
NOTE: SRS has rules and regulations for these homes. DHES does not license these. The health inspection/verification is done by the local health department at the request of SRS; however, no health standards exist and no statewide continuity of health inspections exists.

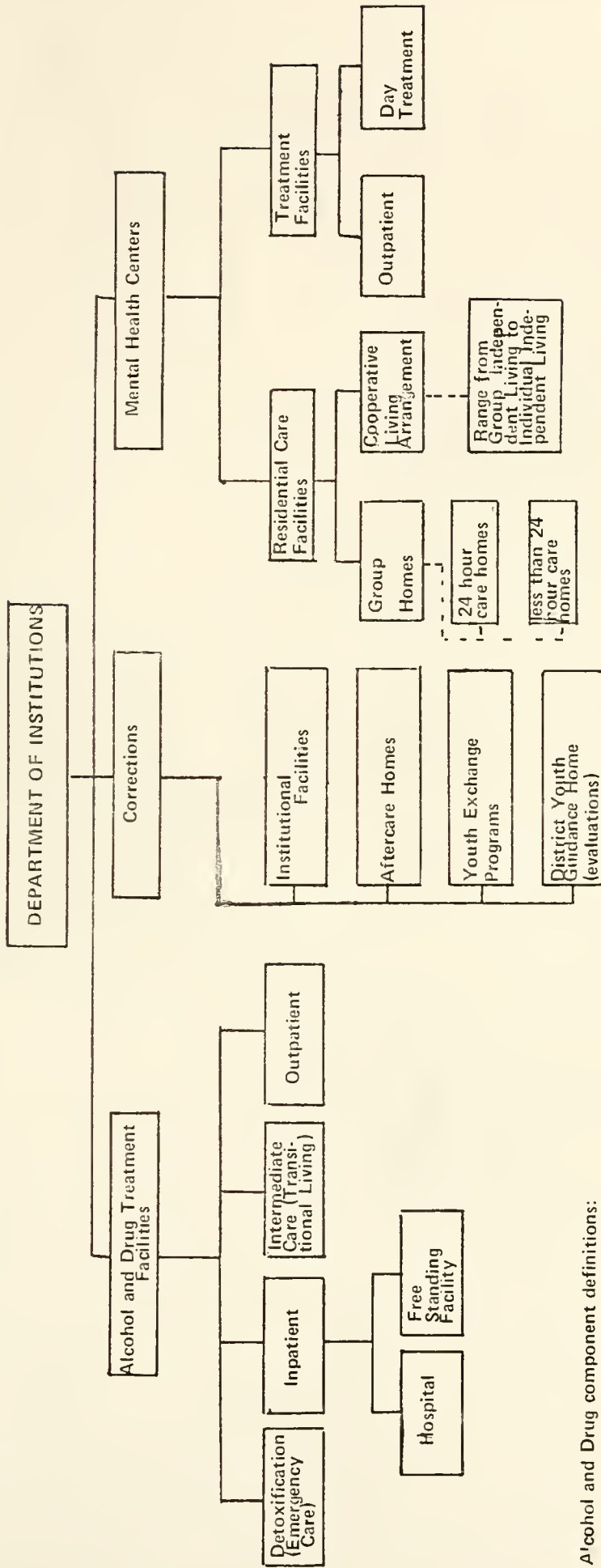


DEPARTMENT OF HEALTH & ENVIRONMENTAL SCIENCES



DHES SERVICES STRUCTURE





Alcohol and Drug component definitions:

DETOXIFICATION (EMERGENCY CARE) COMPONENT: the services required for the treatment of persons intoxicated or incapacitated by alcohol and/or drugs. Detoxification involves clearing the system of alcohol and/or drugs and enabling individual recovery from the effects of intoxication. These services include screening of intoxicated persons, counseling of clients to obtain further treatment, and referral of detoxified persons to other appropriate treatment programs. Medical detoxification refers to short term treatment in a licensed medical hospital. Non-medical detoxification refers to short term treatment in a social setting with 24 hour supervision.

INPATIENT (HOSPITAL) CARE COMPONENT: treatment for persons requiring 24 hour supervision in a licensed hospital or suitable licensed facility being licensed by the department of health under 50-5-231. Services include medical evaluation and health supervision; alcoholism education; organized individual, group and family counseling; discharge referral to necessary supportive services; and a client follow-up program after discharge.

INPATIENT (FREE STANDING) CARE COMPONENT: treatment for persons requiring 24 hour supervision in a community based residential setting. Services include a physical exam signed by a licensed physician; alcoholism education; organized individual, group and family counseling; discharge referral to necessary supportive services and a client follow-up program after discharge.

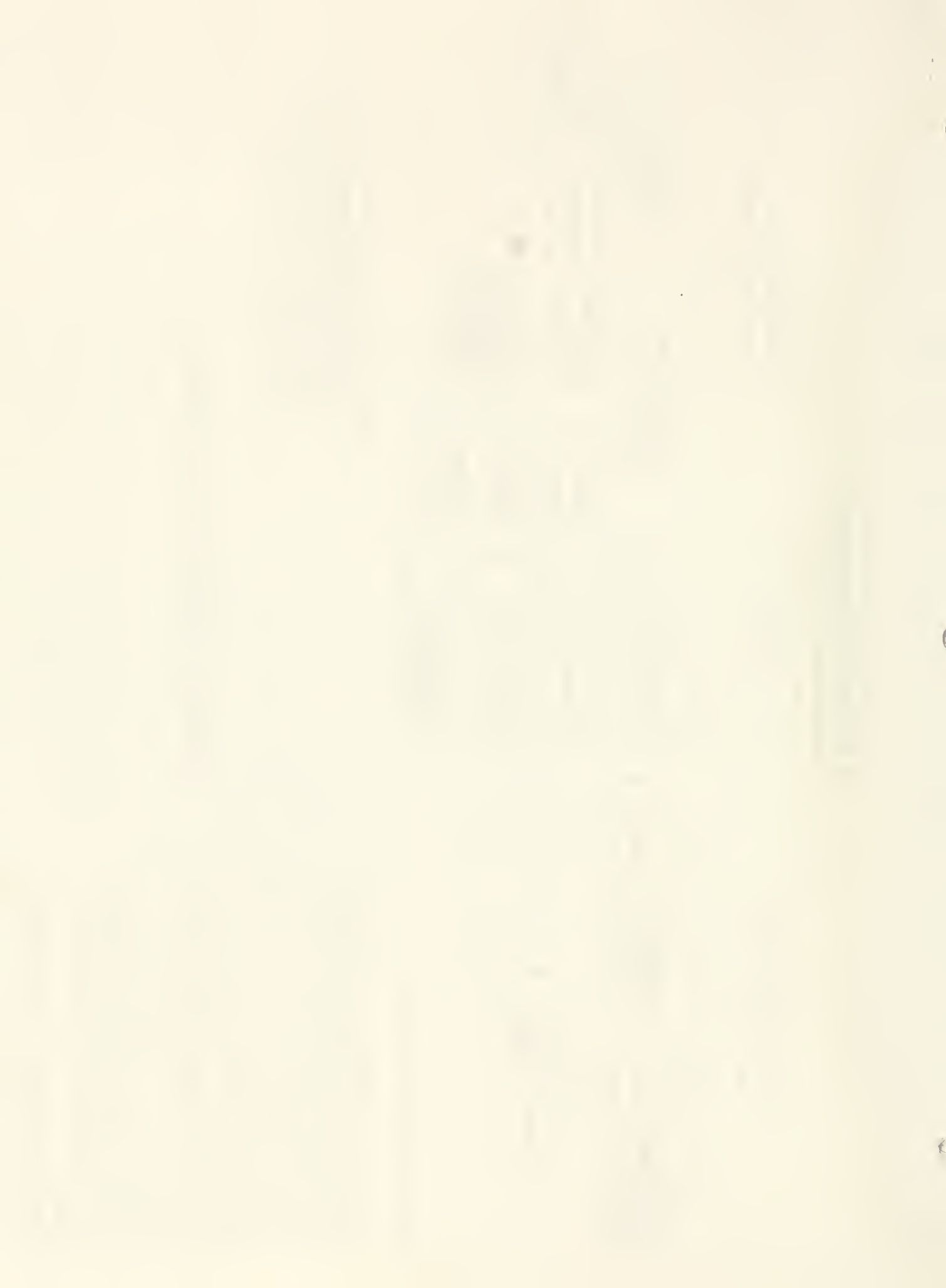
INTERMEDIATE CARE (TRANSITIONAL LIVING) COMPONENT: a non-medical residential facility in a community-based setting. These facilities provide a transitional phase for individuals who have recently completed hospitalization or intermediate care services and require a moderately structured living arrangement. Services provided include counseling services (individual and group), alcoholism education, and social and recreational activities. These individuals are encouraged to seek vocational rehabilitation, occupational training, education and/or employment as soon as possible.

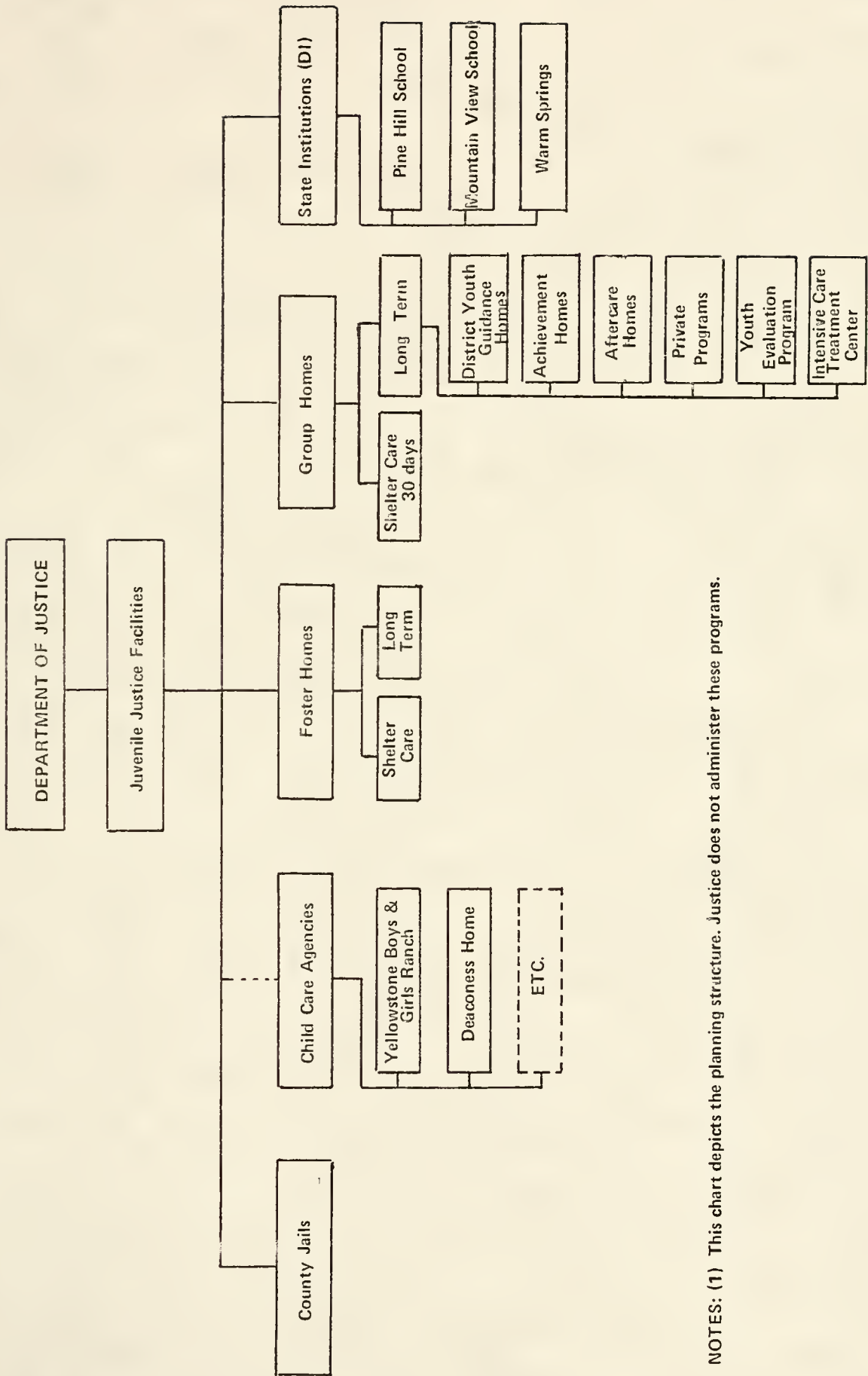
OUTPATIENT CARE COMPONENT: services provided on a regularly scheduled basis to clients residing outside a program. Services include crisis intervention; counseling; alcohol education; referral services; and a client follow-up program after discharge.

Mental Health Center component comments:

- Some of these facilities are licensed by DHES under the Roominghouse/Retirement Home provisions.
- One of these facilities is licensed by DHES as an institution because it is on hospital grounds.
- One of these facilities is licensed by SRS.

DEPARTMENT OF INSTITUTIONS SERVICES STRUCTURE





NOTES: (1) This chart depicts the planning structure. Justice does not administer these programs.



